MONTANA LEGISLATIVE HISTORY

Chapter 99 ~~19~~ 2001

Bill H 152 S _____ Original bill & history X C

H. Committee on STATE ADMINISTRATION

Hearing Date(s)	1/10	X C
EXEC. ACTION	1/17	X C
		C
		C
Date Out		C

S. Committee on STATE ADMINISTRATION

Hearing Date(s) & EXEC. ACTION	3/2	X C
		C
		C
		C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

LEGISLATIVE HISTORIES SINCE 1997

The scope and depth of legislative committee minutes varies by year and by committee. If you would like additional information about a hearing, you may want to determine whether the hearing was recorded. In addition, some recent floor debates were also recorded. For information on accessing or purchasing these recordings, contact the Historical Society Archives at 406-444-4774.

If you have concerns regarding the format of the enclosed committee minutes or the recordings of the hearings, it is suggested that you contact your state legislators.

Bill Draft Number: LC0335
Bill Type - Number: HB 152
Short Title: Revise public retirement laws
Primary Sponsor: Dave Gallik

Bill Actions - **Current Bill Progress:** Became Law

Bill Action Count: 46

Action - Most Recent First	Date	Votes Yes	Votes No	Committee
Chapter Number Assigned	03/22/2001			
(H) Signed by Governor	03/21/2001			
(H) Transmitted to Governor	03/12/2001			
(S) Signed by President	03/10/2001			
(H) Signed by Speaker	03/08/2001			
(H) Returned from Enrolling	03/07/2001			
(C) Sent to Printing	03/07/2001			
(H) Sent to Enrolling	03/07/2001			
(S) Returned to House	03/06/2001			
(S) 3rd Reading Concurred	03/06/2001	47	0	
(S) Scheduled for 3rd Reading	03/06/2001			
(S) 2nd Reading Concurred on Voice Vote	03/05/2001	49	0	
(S) Scheduled for 2nd Reading	03/05/2001			
(S) Committee Report--Bill Concurred	03/02/2001			(S) State Administration
(S) Committee Executive Action--Bill Concurred	03/02/2001	8	0	(S) State Administration
(S) Hearing	03/02/2001			(S) State Administration
(S) Hearing Canceled	02/10/2001			(S) State Administration
(S) Referred to Committee	01/31/2001			(S) State Administration
(S) First Reading	01/31/2001			
(H) Transmitted to Senate	01/30/2001			
(H) 3rd Reading Passed	01/30/2001	88	12	
(H) Scheduled for 3rd Reading	01/30/2001			
(H) 2nd Reading Passed	01/29/2001	91	9	
(H) Scheduled for 2nd Reading	01/29/2001			
(H) Fiscal Note Printed	01/26/2001			
(H) Fiscal Note Received	01/23/2001			

(H) Committee Report--Bill Passed as Amended	01/18/2001			(H) State Administration
(H) Committee Executive Action--Bill Passed as Amended	01/17/2001	18	0	(H) State Administration
(H) Fiscal Note Requested	01/17/2001			
(H) Hearing	01/10/2001			(H) State Administration
(H) First Reading	01/03/2001			
(H) Referred to Committee	12/28/2000			(H) State Administration
(C) Introduced Bill Text Available Electronically	12/22/2000			
(H) Introduced	12/22/2000			
(C) Pre-Introduction Letter Sent	12/20/2000			
(C) Draft in Assembly/Executive Director Review	12/20/2000			
(C) Draft in Final Drafter Review	12/20/2000			
(C) Bill Draft Text Available Electronically	12/19/2000			
(C) Draft in Input/Proofing	12/19/2000			
(C) Draft to Drafter - Edit Review [CAJ]	12/18/2000			
(C) Draft in Edit	12/15/2000			
(C) Draft in Legal Review	12/14/2000			
(C) Draft to Requester for Review	12/01/2000			
(C) Draft Taken Off Hold	12/01/2000			
(C) Draft On Hold	11/20/2000			
(C) Draft Request Received	10/12/2000			

Sponsor, etc.

Sponsor, etc.	Last Name/Organization	First Name Mi
Requester	Legislative Council	
Drafter	Heffelfinger	Sheri
By Request Of	Public Employees' Retirement Board	
Primary Sponsor	Gallik	Dave

Subjects

Description	Revenue/Approp.	Vote Majority Req.	Subject Code
Retirement (see also: Senior Citizens)		Simple	RETR

Additional Bill Information

Probable Fiscal Note: Yes
Preintroduction Required: Y
Session Law Ch. Number: 99
DEADLINE
Category: General Bills
Transmittal Date: 02/23/2001
Return (with 2nd house amendments) Date: 03/31/2001

Section Effective Dates

Section(s)	Effective Date Date Qualified
Section 29	30-JUN-01
Sections 1-28 and 30-133	21-MAR-01

HOUSE BILL NO. 152

INTRODUCED BY D. GALLIK

BY REQUEST OF THE PUBLIC EMPLOYEES' RETIREMENT BOARD

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING PROVISIONS OF THE PUBLIC EMPLOYEES', JUDGES', HIGHWAY PATROL OFFICERS', SHERIFFS', GAME WARDENS' AND PEACE OFFICERS', MUNICIPAL POLICE OFFICERS', FIREFIGHTERS' UNIFIED, AND VOLUNTEER FIREFIGHTER'S COMPENSATION ACT RETIREMENT SYSTEMS; CLARIFYING DEFINITIONS AND TERMS; REVISING THE PUBLIC EMPLOYEES' RETIREMENT BOARD POWERS AND DUTIES PROVISIONS; REVISING INTERLOCAL AGREEMENTS; CLARIFYING SERVICE PURCHASE, PLAN MEMBERSHIP ELECTION, SURVIVORSHIP, FAMILY LAW ORDER, INCOME WITHHOLDING ORDER, ALTERNATE PAYEE, AND BENEFIT COMMENCEMENT PROVISIONS; CLARIFYING CERTAIN INTEREST PAYMENTS; REVISING CERTAIN SURVIVORSHIP BENEFITS; REVISING AND STANDARDIZING CERTAIN INTEREST, CONTRIBUTION, AND REPORTING PROVISIONS; CLARIFYING CATCHUP PROVISIONS AND NORMAL RETIREMENT AGE FOR THE DEFERRED COMPENSATION PROGRAM; REPEALING DUPLICATE SECTIONS; AMENDING SECTIONS 2-18-1101, 5-2-304, 7-11-105, 19-2-303, 19-2-403, 19-2-406, 19-2-505, 19-2-506, 19-2-602, 19-2-703, 19-2-704, 19-2-708, 19-2-801, 19-2-903, 19-2-907, 19-2-908, 19-2-909, 19-3-108, 19-3-403, 19-3-412, 19-3-503, 19-3-505, 19-3-509, 19-3-510, 19-3-511, 19-3-512, 19-3-513, 19-3-901, 19-3-904, 19-3-1002, 19-3-1005, 19-3-1007, 19-3-1008, 19-3-1015, 19-3-1103, 19-3-1105, 19-3-1106, 19-3-1203, 19-3-1204, 19-3-1501, 19-5-101, 19-5-409, 19-5-501, 19-5-502, 19-5-503, 19-5-601, 19-5-701, 19-5-801, 19-5-802, 19-6-101, 19-6-402, 19-6-403, 19-6-501, 19-6-502, 19-6-505, 19-6-601, 19-6-612, 19-6-709, 19-6-801, 19-6-802, 19-6-803, 19-6-804, 19-6-810, 19-6-901, 19-6-902, 19-6-903, 19-7-101, 19-7-301, 19-7-403, 19-7-501, 19-7-503, 19-7-601, 19-7-801, 19-7-802, 19-7-803, 19-7-804, 19-7-810, 19-7-901, 19-7-1001, 19-7-1101, 19-8-101, 19-8-302, 19-8-308, 19-8-502, 19-8-601, 19-8-603, 19-8-701, 19-8-712, 19-8-801, 19-8-901, 19-8-902, 19-8-903, 19-8-904, 19-8-1001, 19-9-104, 19-9-301, 19-9-403, 19-9-405, 19-9-411, 19-9-801, 19-9-1101, 19-9-1102, 19-13-301, 19-13-403, 19-13-404, 19-13-405, 19-13-604, 19-13-701, 19-13-902, 19-13-903, 19-17-102, 19-17-104, 19-17-106, 19-17-202, 19-17-401, 19-17-403, 19-17-404, 19-17-405, AND 19-17-407, MCA; REPEALING SECTIONS 19-2-1101 AND 19-2-1102, MCA; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 2-18-1101, MCA, is amended to read:

"**2-18-1101. Definitions.** As used in this part, the following definitions apply:

(1) "Agency head" means a director, commissioner, or constitutional officer in charge of an executive, legislative, or judicial branch agency or an agency of the Montana university system. The term includes the president or other person in charge of a public retirement board or a unit of the Montana university system.

(2) "Department" means the department of administration provided for in 2-15-1001.

(3) "Employee" means an employee of the executive, legislative, or judicial branch or the Montana university system.

(4) "Group or team of employees" means a group, team, or work unit of employees working cooperatively."

Section 2. Section 5-2-304, MCA, is amended to read:

"**5-2-304. Continued participation in public retirement systems.** (1) The purpose of this section is to provide a means whereby persons serving in the Montana legislature may continue their participation in public retirement systems governed by state law. This section is not intended to provide duplicate credit for the same service in two retirement systems supported wholly or in part by public funds. This section does not affect contribution rates or benefit payments specifically provided for in the laws governing the operation of individual retirement systems.

(2) A person who is engaged in official duties as a member of the Montana legislature and who is a member of a public retirement system governed by state law may, but is not required to, continue the person's participation in that public retirement system while engaged in official duties as a legislator. ~~A legislator shall make an irrevocable election within 180 days of taking office whether to~~ To continue participation in the public retirement system, a legislator shall, within 180 days of taking office and in a manner prescribed by the appropriate board, file an irrevocable written election with the teachers' retirement board or the public employees' retirement board. ~~A person who is a member of the Montana legislature on July 1, 1999, has until January 1, 2000, to file a written application with the teachers' or public employees' retirement board that is the irrevocable election required by this section.~~

(3) A legislator who elects to continue participation as provided in subsection (2) shall continue

the payments into the fund of the retirement system at the rate currently in effect in the system based on the legislator's monthly salary as a member of that system.

(4) The state contribution must be made by legislative appropriation. It must equal the appropriate employer contribution at the rate currently in effect in the system."

Section 3. Section 7-11-105, MCA, is amended to read:

"**7-11-105. Detailed contents of interlocal agreements.** The contract authorized by 7-11-104 ~~shall~~ must specify the following:

(1) its duration;

(2) the precise organization, composition, and nature of any separate legal entity created ~~thereby~~ by the agreement;

(3) the purpose or purposes of ~~said~~ the interlocal contract;

(4) the manner of financing the joint or cooperative undertaking and establishing and maintaining a budget ~~therefor~~ for the entity;

(5) the permissible method or methods to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon ~~such~~ the partial or complete termination;

(6) provision for an administrator or a joint board responsible for administering the joint or cooperative undertaking, including representation of the contracting parties on ~~said~~ the joint board;

(7) the manner of acquiring, holding, and disposing of real and personal property used in the joint or cooperative undertaking;

(8) the contracting party responsible for reports and payment of retirement system contributions pursuant to 19-2-506; and

(9) any other necessary and proper matters."

Section 4. Section 19-2-303, MCA, is amended to read:

"**19-2-303. (Temporary) Definitions.** Unless the context requires otherwise, for each of the retirement systems subject to this chapter, the following definitions apply:

(1) "Accumulated contributions" means the sum of all the regular and any additional contributions made by a member in a system, together with the regular interest on the contributions.

(2) "Active member" means a member who is a paid employee of an employer, is making the required contributions, and is properly reported to the board for the most current reporting period.

(3) "Actuarial cost" means the amount determined by the board in a uniform and nondiscriminatory manner to represent the present value of the benefits to be derived from the additional service to be credited based on the most recent actuarial valuation for the system and the age, years until retirement, and current salary of the member.

(4) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the 1971 Group Annuity Mortality Table, with ages set back 4 years and an interest rate of 8% compounded annually.

(5) "Actuarial liabilities" means the excess of the present value of all benefits payable under a retirement system over the present value of future normal costs in that retirement system.

(6) "Actuary" means the actuary retained by the board in accordance with 19-2-405.

(7) "Additional contributions" means contributions made by a member to purchase various types of optional service credit as allowed by the applicable retirement system.

(8) "Annuity" means equal and fixed payments for life that are the actuarial equivalent of a lump-sum payment under a retirement system and as such are not benefits paid by a retirement system and are not subject to periodic or one-time increases.

(9) "Benefit" means the service or disability retirement or survivorship benefit payment provided by a retirement system.

(10) "Board" means the public employees' retirement board provided for in 2-15-1009.

(11) "Contingent annuitant" means a person designated to receive a continuing monthly benefit after the death of a retired member.

(12) "Credited service" or "service credit" means the periods of time for which the required contributions have been made to a retirement system and that are used to calculate service or disability retirement or survivorship benefits under a retirement system.

(13) "Department" means the department of administration.

(14) "Designated beneficiary" means the person designated by a member or payment recipient to receive any survivorship benefits or lump-sum payments upon the death of the member or payment recipient, including annuities derived from the benefits or payments.

(15) "Disability" means a total inability of the member to perform the member's duties by reason of physical or mental incapacity. The disability must be incurred while the member is an active member and must be one of permanent duration or of extended and uncertain duration, as determined by the board on the basis of competent medical opinion.

(16) "Employee" means a person who is employed by an employer in any capacity and whose salary is being paid by the employer or a person for whom an interlocal governmental entity is responsible for paying retirement contributions pursuant to 7-11-105.

(17) "Employer" means a governmental ~~entity~~ agency participating in a retirement system enumerated in 19-2-302 on behalf of its eligible employees. The term includes an interlocal governmental entity identified as responsible for paying retirement contributions pursuant to 7-11-105.

(18) "Essential elements of the position" means fundamental job duties. An element may be considered essential because of but not limited to the following factors:

(a) the position exists to perform the element;

(b) there are a limited number of employees to perform the element; or

(c) the element is highly specialized.

(19) "Fiscal year" means a plan year, which is any year commencing with July 1 and ending the following June 30.

(20) "Inactive member" means a member who is not an active or retired member.

(21) "Internal Revenue Code" means the federal Internal Revenue Code of 1954 or 1986, as applicable to a retirement system, as that code provided on July 1, 1999.

(22) "Member" means any person with accumulated contributions and service credited with a retirement system or receiving a retirement benefit on account of the person's previous service credited in a retirement system.

(23) "Membership service" ~~or "years of service"~~ means the periods of service that are used to determine eligibility for retirement or other benefits.

(24) "Normal cost" or "future normal cost" means an amount calculated under an actuarial cost method required to fund accruing benefits for members of a retirement system during any year in the future. Normal cost does not include any portion of the supplemental costs of a retirement system.

(25) "Normal retirement age" means the age at which a member is eligible to immediately receive a retirement benefit based on the member's age, length of service, or both, as specified under the member's retirement system, without disability and without an actuarial or similar reduction in the benefit.

(26) "Pension" means benefit payments for life derived from contributions to a system made from state- or employer-controlled funds.

~~(26)~~(27) "Pension trust fund" means a fund established to hold the contributions, income, and assets of a retirement system in public trust.

~~(27)~~(28) "Regular contributions" means contributions required from members under a retirement system.

~~(28)~~(29) "Regular interest" means interest at ~~the rate~~ rates set from time to time by the board.

~~(29)~~(30) "Retirement" or "retired" means the status of a member who has been terminated from service for at least 30 days and has received and accepted a retirement benefit from a retirement system.

~~(30)~~(31) "Retirement benefit" means the periodic benefit payable as a result of service, early, or disability retirement under a retirement system. An annuity is not a retirement benefit.

~~(31)~~(32) "Retirement system" or "system" means one of the public employee retirement systems enumerated in 19-2-302.

~~(32)~~(33) "Service" means employment of an employee in a position covered by a retirement system.

~~(33)~~(34) "Statutory beneficiary" means the surviving spouse or dependent child or children of a member of the highway patrol officers', municipal police officers', or firefighters' unified retirement system who are statutorily designated to receive benefits upon the death of the member.

~~(34)~~(35) "Supplemental cost" means an element of the total actuarial cost of a retirement system arising from benefits payable for service performed prior to the inception of the retirement system or prior to the date of contribution rate increases, changes in actuarial assumptions, actuarial losses, or failure to fund or otherwise recognize normal cost accruals or interest on supplemental costs. These costs are included in the unfunded actuarial liabilities of the retirement system.

~~(35)~~(36) "Survivorship benefit" means payments for life to the statutory or designated beneficiary of a deceased member who died while in service under a retirement system.

~~(36)~~(37) "Termination of employment" or "termination of service" means that the member has severed the employment relationship with the employer and has been paid all compensation due upon termination of employment, including but not limited to payment of accrued annual leave credits, as provided in 2-18-617, and payment of accrued sick leave credits, as provided in 2-18-618. For purposes of this subsection, compensation as a result of legal action, court order, appeal, or settlement to which the board was not party is not a payment due upon termination.

~~(37)~~(38) "Unfunded actuarial liabilities" or "unfunded liabilities" means the excess of a retirement system's actuarial liabilities at any given point in time over the value of its cash and investments on that same date.

~~(38)~~(39) "Vested member" or "vested" means a member or the status of a member who has attained the minimum membership service requirements to be eligible for retirement benefits under a

retirement system.

~~(39)~~(40) "Written application" or "written election" means a written instrument, ~~specified~~ prescribed by the board or required by law, properly ~~executed~~ signed~~,~~ and filed with the board, that contains all ~~the~~ required information ~~required by the board~~, including documentation that the board considers necessary.

19-2-303. (Effective on occurrence of contingency or July 1, 2002, whichever is earlier) Definitions. Unless the context requires otherwise, for each of the retirement systems subject to this chapter, the following definitions apply:

(1) "Account balance" means all contributions, income, and other assets in a retirement account that have, pursuant to 19-3-2116, vested to a member of the defined contribution plan.

(2) "Accumulated contributions" means the sum of all the regular and any additional contributions made by a member in a defined benefit plan, together with the regular interest on the contributions.

(3) "Active member" means a member who is a paid employee of an employer, is making the required contributions, and is properly reported to the board for the most current reporting period.

(4) "Actuarial cost" means the amount determined by the board in a uniform and nondiscriminatory manner to represent the present value of the benefits to be derived from the additional service to be credited based on the most recent actuarial valuation for the system and the age, years until retirement, and current salary of the member.

(5) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the 1971 Group Annuity Mortality Table, with ages set back 4 years and an interest rate of 8% compounded annually.

(6) "Actuarial liabilities" means the excess of the present value of all benefits payable under a defined benefit retirement plan over the present value of future normal costs in that retirement plan.

(7) "Actuary" means the actuary retained by the board in accordance with 19-2-405.

(8) "Additional contributions" means contributions made by a member of a defined benefit plan to purchase various types of optional service credit as allowed by the applicable retirement plan.

(9) "Annuity" means:

(a) in the case of a defined benefit plan, equal and fixed payments for life that are the actuarial equivalent of a lump-sum payment under a retirement plan and as such are not benefits paid by a retirement plan and are not subject to periodic or one-time increases; or

(b) in the case of the defined contribution plan, a payment of a fixed sum of money at regular intervals.

(10) "Benefit" means:

(a) the service or disability retirement or survivorship benefit payment provided by a defined benefit retirement plan; or

(b) a payment or distribution under the defined contribution retirement plan for the exclusive benefit of a plan member or the member's beneficiary or an annuity purchased under 19-3-2124.

(11) "Board" means the public employees' retirement board provided for in 2-15-1009.

(12) "Contingent annuitant" means a person designated to receive a continuing monthly benefit after the death of a retired member.

(13) "Covered employment" means employment in a covered position.

(14) "Covered position" means a position in which the employee must be a member of the retirement system except as otherwise provided by law.

(15) "Credited service" or "service credit" means the periods of time for which the required contributions have been made to a retirement plan and that are used to calculate service or disability retirement or survivorship benefits under a defined benefit retirement plan.

(16) "Defined benefit retirement plan" or "defined benefit plan" means a plan within the retirement systems provided for pursuant to 19-2-302 that is not the defined contribution retirement plan.

(17) "Defined contribution retirement plan" or "defined contribution plan" means the plan within the public employees' retirement system established in 19-3-103 that is provided for in chapter 3, part 21, of this title and that is not a defined benefit plan.

(18) "Department" means the department of administration.

(19) "Designated beneficiary" means the person designated by a member or payment recipient to receive any survivorship benefits, lump-sum payments, or benefit from a retirement account upon the death of the member or payment recipient, including annuities derived from the benefits or payments.

(20) "Disability" means a total inability of the member to perform the member's duties by reason of physical or mental incapacity. The disability must be incurred while the member is an active member and must be one of permanent duration or of extended and uncertain duration, as determined by the board on the basis of competent medical opinion.

(21) "Employee" means a person who is employed by an employer in any capacity and whose salary is being paid by the employer or a person for whom an interlocal governmental entity is responsible for paying retirement contributions pursuant to 7-11-105.

(22) "Employer" means a governmental ~~entity~~ agency participating in a retirement system

enumerated in 19-2-302 on behalf of its eligible employees. The term includes an interlocal governmental entity identified as responsible for paying retirement contributions pursuant to 7-11-105.

(23) "Essential elements of the position" means fundamental job duties. An element may be considered essential because of but not limited to the following factors:

(a) the position exists to perform the element;

(b) there are a limited number of employees to perform the element; or

(c) the element is highly specialized.

(24) "Fiscal year" means a plan year, which is any year commencing with July 1 and ending the following June 30.

(25) "Inactive member" means a member who is not an active or retired member.

(26) "Internal Revenue Code" means the federal Internal Revenue Code of 1954 or 1986, as applicable to a retirement system, as that code provided on July 1, 1999.

(27) "Member" means either:

(a) a person with accumulated contributions and service credited with a defined benefit retirement plan or receiving a retirement benefit on account of the person's previous service credited in a retirement system; or

(b) a person with a retirement account in the defined contribution plan.

(28) "Membership service" ~~or "years of service"~~ means the periods of service that are used to determine eligibility for retirement or other benefits.

(29) "Normal cost" or "future normal cost" means an amount calculated under an actuarial cost method required to fund accruing benefits for members of a defined benefit retirement plan during any year in the future. Normal cost does not include any portion of the supplemental costs of a retirement plan.

(30) "Normal retirement age" means the age at which a member is eligible to immediately receive a retirement benefit based on the member's age, length of service, or both, as specified under the member's retirement system, without disability and without an actuarial or similar reduction in the benefit.

(31) "Pension" means benefit payments for life derived from contributions to a retirement plan made from state- or employer-controlled funds.

~~(31)~~(32) "Pension trust fund" means a fund established to hold the contributions, income, and assets of a retirement system or plan in public trust.

~~(32)~~(33) "Plan choice rate" means the amount of the employer contribution as a percentage of payroll covered by the defined contribution plan members that is allocated to the public employees'

retirement system's defined benefit plan pursuant to 19-3-2117 and that is adjusted by the board pursuant to 19-3-2121 to actuarially fund the unfunded liabilities and the normal cost rate changes in a defined benefit plan resulting from member selection of the defined contribution plan.

~~(33)~~(34) "Regular contributions" means contributions required from members under a retirement plan.

~~(34)~~(35) "Regular interest" means interest at ~~the rate~~ rates set from time to time by the board.

~~(35)~~(36) "Retirement" or "retired" means the status of a member who has been terminated from service for at least 30 days and has received and accepted a retirement benefit from a retirement plan.

~~(36)~~(37) "Retirement account" means an individual account within the defined contribution retirement plan for the deposit of employer and employee contributions and other assets for the exclusive benefit of a member of the defined contribution plan or the member's beneficiary.

~~(37)~~(38) "Retirement benefit" means:

(a) in the case of a defined benefit plan, the periodic benefit payable as a result of service, early, or disability retirement under a defined benefit plan of a retirement system. With respect to a defined benefit plan, the term does not mean an annuity.

(b) in the case of the defined contribution plan, a benefit as defined in subsection (10)(b).

~~(38)~~(39) "Retirement system" or "system" means one of the public employee retirement systems enumerated in 19-2-302.

~~(39)~~(40) "Service" means employment of an employee in a position covered by a retirement system.

~~(40)~~(41) "Statutory beneficiary" means the surviving spouse or dependent child or children of a member of the highway patrol officers', municipal police officers', or firefighters' unified retirement system who are statutorily designated to receive benefits upon the death of the member.

~~(41)~~(42) "Supplemental cost" means an element of the total actuarial cost of a defined benefit retirement plan arising from benefits payable for service performed prior to the inception of the retirement plan or prior to the date of contribution rate increases, changes in actuarial assumptions, actuarial losses, or failure to fund or otherwise recognize normal cost accruals or interest on supplemental costs. These costs are included in the unfunded actuarial liabilities of the retirement plan.

~~(42)~~(43) "Survivorship benefit" means payments for life to the statutory or designated beneficiary of a deceased member who died while in service under a defined benefit retirement plan.

~~(43)~~(44) "Termination of employment" or "termination of service" means that the member has severed the employment relationship with the employer and has been paid all compensation due upon

termination of employment, including but not limited to payment of accrued annual leave credits, as provided in 2-18-617, and payment of accrued sick leave credits, as provided in 2-18-618. For purposes of this subsection, compensation as a result of legal action, court order, appeal, or settlement to which the board was not party is not a payment due upon termination.

~~(44)~~(45) "Unfunded actuarial liabilities" or "unfunded liabilities" means the excess of a defined benefit retirement plan's actuarial liabilities at any given point in time over the value of its cash and investments on that same date.

~~(45)~~(46) "Vested member" or "vested" means:

(a) with respect to a defined benefit plan, a member or the status of a member who has attained the minimum membership service requirements to be eligible for retirement benefits under the retirement plan; or

(b) with respect to the defined contribution plan, a member or the status of a member who, pursuant to 19-3-2116, is entitled to employer contributions and income on those contributions in the member's retirement account.

~~(46)~~(47) "Written application" or "written election" means a written instrument, ~~specified~~ prescribed by the board or required by law, properly ~~executed~~ signed~~,~~ and filed with the board, that contains all ~~the~~ required information ~~required by the board~~, including documentation that the board considers necessary."

Section 5. Section 19-2-403, MCA, is amended to read:

"19-2-403. (Temporary) Powers and duties of board. (1) The board shall administer the provisions of the chapters enumerated in 19-2-302.

(2) The board may establish rules that it considers proper for the administration and operation of the retirement systems and enforcement of the chapters under which each retirement system is established.

(3) The board shall establish uniform rules that are necessary to determine service credit for fractional years of service.

(4) The board shall determine who are employees within the meaning of each retirement system. The board is the sole authority for determining the conditions under which persons may become members of and receive benefits under the retirement systems.

(5) The board shall determine and may modify retirement benefits under the retirement systems. Benefits may be paid only if the board decides, in its discretion, that the applicant is, under the provisions

of the appropriate retirement system, entitled to the benefits.

(6) In matters of board discretion under the systems, the board shall treat all persons in similar circumstances in a uniform and nondiscriminatory manner.

(7) The board shall maintain records and accounts it determines necessary for the administration of the retirement systems.

(8) Upon the basis of the findings of the actuary pursuant to 19-2-405, the board shall adopt actuarial rates and rates of regular interest it determines appropriate for the administration of the retirement systems.

(9) The board shall review the sufficiency of benefits paid by the retirement system and recommend to the legislature those changes in benefits that may be necessary for retired members and their beneficiaries to maintain a stable standard of living.

(10) The board may implement third-party mailings under the provisions of 2-6-109. If third-party mailings are implemented, the board shall adopt rules governing means of implementation, including the specification of eligible third parties, appropriate materials, and applicable fees and procedures. Fees generated by third-party mailings must be deposited in an account in the state special revenue fund and must be appropriated to the board for the benefit of participants of retirement systems administered by the board.

(11) In discharging duties, the board, a member of the board, or an authorized representative of the board may conduct hearings, administer oaths and affirmations, take depositions, certify to official acts and records, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records. Subpoenas must be issued and enforced pursuant to 2-4-104 of the Montana Administrative Procedure Act.

(12) The board may by rule or otherwise delegate to the board's executive director or any other staff member any of the powers or duties conferred by law upon the board except as otherwise provided by law and except for the adoption of rules and the issuance of final orders after hearings held pursuant to subsection (11) or the contested case procedure of the Montana Administrative Procedure Act.

19-2-403. (Effective on occurrence of contingency or July 1, 2002, whichever is earlier) Powers and duties of board. (1) The board shall administer the provisions of the chapters enumerated in 19-2-302.

(2) The board may establish rules that it considers proper for the administration and operation of the retirement systems and enforcement of the chapters under which each retirement system is established.

(3) The board shall establish uniform rules that are necessary to determine service credit for fractional years of service.

(4) The board shall determine who are employees within the meaning of each retirement system. The board is the sole authority for determining the conditions under which persons may become members of and receive benefits under the retirement systems.

(5) The board shall determine and may modify retirement benefits under the retirement systems. Benefits may be paid only if the board decides, in its discretion, that the applicant is, under the provisions of the appropriate retirement system, entitled to the benefits.

(6) In matters of board discretion under the systems, the board shall treat all persons in similar circumstances in a uniform and nondiscriminatory manner.

(7) The board shall maintain records and accounts it determines necessary for the administration of the retirement systems.

(8) Upon the basis of the findings of the actuary pursuant to 19-2-405, the board shall adopt actuarial rates and rates of regular interest it determines appropriate for the administration of the retirement systems.

(9) The board shall review the sufficiency of benefits paid by the retirement system or plan and recommend to the legislature those changes in benefits in a defined benefit plan or in contributions under the defined contribution plan that may be necessary for members and their beneficiaries to maintain a stable standard of living.

(10) The board may implement third-party mailings under the provisions of 2-6-109. If third-party mailings are implemented, the board shall adopt rules governing means of implementation, including the specification of eligible third parties, appropriate materials, and applicable fees and procedures. Fees generated by third-party mailings must be deposited in an account in the state special revenue fund and must be appropriated to the board for the benefit of participants of retirement systems or plans administered by the board.

(11) In discharging duties, the board, a member of the board, or an authorized representative of the board may conduct hearings, administer oaths and affirmations, take depositions, certify to official acts and records, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records. Subpoenas must be issued and enforced pursuant to 2-4-104 of the Montana Administrative Procedure Act.

(12) The board may by rule or otherwise delegate to the board's executive director or any other

staff member any of the powers or duties conferred by law upon the board except as otherwise provided by law and except for the adoption of rules and the issuance of final orders after hearings held pursuant to subsection (11) or the contested case procedure of the Montana Administrative Procedure Act.

(13) The board shall perform other duties and may exercise the powers concerning the defined contribution plan for plan members as provided in chapter 3, part 21, of this title."

Section 6. Section 19-2-406, MCA, is amended to read:

"**19-2-406. (Temporary) Determination of disability by board -- compliance with federal law -- conversion to service retirement benefit -- rules.** (1) The board shall determine whether a member has become disabled. In the discharge of its duty regarding determinations, the board, any member of the board, or any authorized representative of the board may order medical examinations, conduct hearings, administer oaths and affirmations, take depositions, certify to official acts and records, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records considered necessary as evidence in connection with a claim for disability retirement. Subpoenas must be issued and enforced pursuant to 2-4-104 of the Montana Administrative Procedure Act.

(2) The board shall adopt rules requiring employers to identify and explain the essential elements of a member's position, any accommodations that were or can be made in compliance with the Americans With Disabilities Act of 1990 (42 U.S.C. 12101, et seq.), and the effectiveness of the accommodations.

(3) The board shall retain medical personnel to advise it in assessing the nature and extent of disabling conditions while reviewing claims for disability retirement.

(4) The disability retirement benefit paid to a member must be converted to a service retirement benefit, without recalculation of the monthly benefit amount, when the member has attained ~~the minimum age required for~~ normal ~~service~~ retirement age. The board shall notify the member in writing as to the change in status.

19-2-406. (Effective on occurrence of contingency or July 1, 2002, whichever is earlier) Determination of disability by board -- compliance with federal law -- conversion to service retirement benefit -- rules. (1) The board shall determine whether a member has become disabled. In the discharge of its duty regarding determinations, the board, any member of the board, or any authorized representative of the board may order medical examinations, conduct hearings, administer oaths and affirmations, take depositions, certify to official acts and records, and issue subpoenas to compel the attendance of

witnesses and the production of books, papers, correspondence, memoranda, and other records considered necessary as evidence in connection with a claim for disability retirement. Subpoenas must be issued and enforced pursuant to 2-4-104 of the Montana Administrative Procedure Act.

(2) The board shall adopt rules requiring employers to identify and explain the essential elements of a member's position, any accommodations that were or can be made in compliance with the Americans With Disabilities Act of 1990 (42 U.S.C. 12101, et seq.), and the effectiveness of the accommodations.

(3) The board shall retain medical personnel to advise it in assessing the nature and extent of disabling conditions while reviewing claims for disability retirement.

(4) The disability retirement benefit paid to a member of a defined benefit plan must be converted to a service retirement benefit, without recalculation of the monthly benefit amount, when the member has attained ~~the minimum age required for~~ normal ~~service~~ retirement age. The board shall notify the member in writing as to the change in status.

(5) This section does not apply to members of the defined contribution plan."

Section 7. Section 19-2-505, MCA, is amended to read:

"**19-2-505. (Temporary) Restrictions on use of funds.** (1) Except as provided in this section, a member or an employee of the board or the board of investments may not:

(a) have any interest, direct or indirect, in the making of any investment or in the gains or profits accruing from the pension trust funds;

(b) directly or indirectly, for the member or employee or as an agent or partner of others, borrow from the pension trust funds or deposits;

(c) in any manner use the pension trust funds except to make current and necessary payments that are authorized by the board;

(d) become an endorser or surety as to or in any manner an obligor for investments for the pension trust funds; or

(e) engage in a transaction prohibited by section 503(b) of the Internal Revenue Code.

(2) The assets of the retirement systems may not be used for or diverted to any purpose other than for the exclusive benefit of the members and their beneficiaries and for paying the reasonable administrative expenses of the retirement systems administered by the board.

(3) The assets of the retirement systems remain in trust until a warrant has been negotiated or an electronic funds transfer has been deposited in accordance with law.

(4) Retirement benefits not claimed within 5 years after the member's death are forfeited and revert to the retirement system trust fund.

19-2-505. (Effective on occurrence of contingency or July 1, 2002, whichever is earlier) Restrictions on use of funds. (1) Except as provided in this section, a member or an employee of the board or the board of investments may not:

(a) have any interest, direct or indirect, in the making of any investment or in the gains or profits accruing from the pension trust funds;

(b) directly or indirectly, for the member or employee or as an agent or partner of others, borrow from the pension trust funds or deposits;

(c) in any manner use the pension trust funds except to make current and necessary payments that are authorized by the board;

(d) become an endorser or surety as to or in any manner an obligor for investments for the pension trust funds; or

(e) engage in a transaction prohibited by section 503(b) of the Internal Revenue Code.

(2) The assets of the retirement systems, including the assets of retirement accounts, may not be used for or diverted to any purpose other than for the exclusive benefit of the members and their beneficiaries and for paying the reasonable administrative expenses of the retirement systems administered by the board.

(3) The assets of the retirement systems remain in trust until a warrant has been negotiated or an electronic funds transfer has been deposited in accordance with law.

(4) Retirement benefits not claimed within 5 years after the member's death are forfeited and revert to the retirement system trust fund.

~~(4)~~(5) This section does not prevent the administration of an investment alternative within the defined contribution plan to the same extent that all other investment alternatives within the defined contribution plan are managed."

Section 8. Section 19-2-506, MCA, is amended to read:

"19-2-506. Payment of contributions by employers -- accompanying reports -- penalty. (1) ~~At a time prescribed by the rules of the board, each employer~~ The board shall prescribe by rule the procedure for payment of retirement contributions for the retirement systems administered by the board. Each employer shall pick up the employee contributions and remit ~~to the board all~~ the employer and employee

contributions required ~~of the employer and its employees under~~ by the member's retirement ~~systems subject to this chapter on the basis of covered compensation paid during the previous pay period~~ system.

(2) The board may collect payments delinquent under subsection (1) with an interest penalty at the rate of 9% a year or $10 a day, whichever is greater. The board may, in its discretion, waive the penalty. The collection may be made by either:

(a) an action in a court of competent jurisdiction against the employer; or

(b) deductions, at the request of the board, from any other money payable to the employer by any agency or fund of the state.

(3) ~~Employers shall submit~~ The board shall prescribe by rule the procedure for submitting employer reports ~~to the board, as the board requires by rule, of compensation paid to both member and nonmember employees~~. The reports must include data about member and nonmember employees who work for the employer. The data required must include items such as compensation paid, hourly rates, changes in pay status, current home addresses, and any other data concerning employees that the board needs to administer the specific retirement system or plan. The board shall establish the method of reporting, the reporting period, and the frequency of reports to meet the demands of the relevant retirement system or plan.

(4) ~~The chief administrative officer of each employer shall furnish monthly reports to the board showing any changes in status during the preceding month of the employer's members resulting from transfer, promotion, leave of absence, resignation, reinstatement, dismissal, or death. The chief administrative officer~~ Each employer shall furnish additional information concerning ~~the~~ members ~~that the board may require in the administration of the retirement systems, including the services of the employer's office and departments~~ that the board may request in connection with claims by members for benefits or service under ~~the~~ a retirement ~~systems~~ system.

(5) The board, from time to time, may send materials to an employer for redistribution to employees. To facilitate distribution, each employer shall provide the board with a point of contact responsible for distributing the materials."

Section 9. Section 19-2-602, MCA, is amended to read:

"19-2-602. Refund of member's contributions on termination of service. (1) Except as provided in this section, any member whose service has been discontinued, other than by death or retirement, must be paid the member's accumulated contributions ~~on~~ upon the filing of a written application by the member

and board approval. Prior to termination of service, a member may not receive a refund of any portion of the member's accumulated contributions.

(2) A nonvested member who terminates from service with accumulated contributions of less than $200 must be paid the accumulated contributions in a lump sum as soon as administratively feasible after termination without a written application ~~from~~ being filed by the member.

(3) A nonvested member who terminates from service with accumulated contributions of $200 to $5,000 must be paid the accumulated contributions in a lump sum as soon as administratively feasible after termination, unless a written application is ~~made~~ filed pursuant to subsection (4).

(4) Upon the filing of a written application ~~of~~ by an alternate payee eligible to receive a single distribution of $200 or more under 19-2-907 or 19-2-909 or a terminating member ~~with~~ eligible to receive a refund of $200 or more of accumulated contributions, the board shall make a direct rollover distribution as allowed under Internal Revenue Code section 401(a)(31) ~~of the eligible portion of a refund of the member's accumulated contributions~~. The direct rollover distribution must be paid directly to an eligible retirement plan allowed under applicable federal law. The ~~terminating member shall designate the~~ applicant is responsible for designating an eligible retirement plan on forms provided by the board. ~~Amounts of the member's accumulated contributions that are~~ The portion of the account not eligible for direct rollover distribution must be paid ~~to the terminating member. The terminating member is responsible to correctly designate an eligible retirement plan to receive the direct rollover distribution~~ directly to the recipient."

Section 10. Section 19-2-703, MCA, is amended to read:

"19-2-703. No duplication of benefits for same period of service. (1) A ~~period of service of the~~ member may not ~~be credited~~ receive service credit or membership service in more than one retirement system ~~enumerated in 19-2-302~~, plan, or program under Title 19 for ~~purposes of calculation of retirement benefits~~ the same period of service.

(2) A member may not receive service credit or membership service in more than one retirement system, plan, or program in Title 19 for the same period of military service."

Section 11. Section 19-2-704, MCA, is amended to read:

"19-2-704. Purchasing service credits allowed -- payroll deduction. (1) Subject to the rules promulgated by the board, an eligible member may elect to contribute amounts in addition to the mandatory employee contributions required by the member's retirement system ~~in which the member~~

~~participates for the purpose of purchasing~~ to purchase service credits as provided by the statutes governing the retirement system.

(2) Subject to any statutory provision establishing stricter limitations, only active or vested inactive members are eligible to purchase~~, qualify,~~ or transfer service credits, membership service, or contributions.

(3) A member who wishes to redeposit amounts withdrawn under 19-2-602 or who is eligible to purchase service as provided by the statutes governing the retirement system to which the member belongs may elect to make a lump-sum payment, installment payments, or a combination of a lump-sum payment and installment payments.

(4) Installment payments must be paid directly to the board, unless the member ~~makes~~ elects to make payments by irrevocable payroll deduction. The minimum installment period for payments made directly to the board is 3 months, and the maximum installment period is 5 years.

(5) To elect installment payments by irrevocable payroll deduction, the member shall file with the board and the member's employer ~~a binding,~~ an irrevocable, written application and authorization for payroll deductions. The application and authorization:

(a) must be ~~executed~~ signed by the member and the member's employer;

(b) must specify the dollar amount of each deduction and the number of deductions to be made, subject to any maximum amounts or duration established by state or federal law;

(c) must provide that the deductions are to be made over a period of time of no less than 3 months and no more than 5 years in duration;

(d) may not give the member the option of receiving the deduction amounts directly instead of having them paid by the employer to the board; and

(e) must specify that the contributions being picked up, although designated as employee contributions, are being paid by the employer directly to the board in lieu of contributions paid directly by the employee.

(6) If the board notifies the employer that a proper written application and authorization has been ~~received by~~ filed with the board, the employer shall initiate the payroll deduction as follows:

(a) An employer shall pick up the member's elective contributions made pursuant to a payroll deduction authorization. The contributions picked up by the employer must be paid from the same source as is used to pay compensation to the member and must be included as part of the member's earned compensation before the deduction is made.

(b) Employee contributions, even though designated as employee contributions for state law

purposes, are paid by the member's employer in lieu of contributions paid directly by the member to the board.

(c) The member may not choose to receive the contributed amounts directly instead of having them paid by the employer to the board.

(d) The effective date of the employer pickup and payment pursuant to this section is the date on which the employee contribution is first deducted from the employee's compensation. However, the effective date may not be prior to the date that the member properly completes the written application and authorization for payroll deductions and files it with the board. The pickup may not apply to any contributions made before the effective date or to any contributions related to compensation earned for services rendered before the effective date.

(e) ~~A contract for installment~~ Installment payments initiated ~~before~~ by contract prior to July 1, 1999, may be ~~made~~ paid by payroll deduction only if the member ~~executes~~ files a written application and authorization for payroll deductions pursuant to this section. If the member does not ~~execute~~ file a written application and authorization for payroll deductions pursuant to this section, the installment contract payments agreed to by the member must be paid by the member directly to the board.

(f) A member may ~~make~~ file more than one ~~binding,~~ irrevocable payroll deduction agreement and authorization as long as a subsequent deduction authorization does not amend a previous ~~binding,~~ irrevocable authorization. A member may not prepay an amount under ~~a binding,~~ an irrevocable payroll deduction.

(7) If a member terminates service or dies before completing all payments required by a payroll deduction authorization ~~made~~ filed pursuant to this section, the deduction authorization expires and the board shall prorate the service credit based on the amount paid as of the date of termination unless further payment is made as provided in this subsection. In the case of a termination, the member may make a lump-sum payment for the balance of the service subject to the limitations of section 415 of the Internal Revenue Code. In the case of death of the member, the payment may be made from the member's estate subject to the limitations of section 415 of the Internal Revenue Code."

Section 12. Section 19-2-708, MCA, is amended to read:

"**19-2-708. Rollover of contributions.** (1) A member who ~~wishes~~ elects to and is eligible to ~~qualify~~ purchase service from another retirement system or plan into a retirement system provided for in 19-2-302 may, prior to retirement, ~~make~~ file a written application ~~to~~ with the board to roll over, in accordance with

the requirements of this part, to the retirement system to which the member belongs all or a portion of the member's account with the other eligible retirement system or plan. The total amount of the rollover to the retirement system may not exceed the amount of service that the member is allowed to purchase as a member of that system. The rollover must be completed prior to the member's retirement.

(2) The board shall accept a direct rollover of eligible distributions from another eligible retirement plan as provided in subsection (1) only to the extent permitted by section 401(a)(31) of the Internal Revenue Code."

Section 13. Section 19-2-801, MCA, is amended to read:

"**19-2-801. Designation of beneficiary.** (1) In the absence of any statutory beneficiaries, designated beneficiaries are the natural persons, charitable organizations, or trusts for the benefit of natural living persons that the member or payment recipient designates on the membership card or other form provided by the board. Unless otherwise provided by statute, a member or payment recipient may revoke the designation and name different designated beneficiaries by filing with the board a new membership card or other form provided by the board.

(2) A statutory or designated beneficiary who renounces an interest in the payment rights of a member or payment recipient will be considered, with respect to that interest, as having predeceased the member or payment recipient."

Section 14. Section 19-2-903, MCA, is amended to read:

"**19-2-903. Adjustment of errors in payments.** (1) If ~~more or less than~~ the ~~correct~~ amount of a contribution ~~required by a retirement system subject to this chapter is or has been paid, proper adjustment must be made in connection with the subsequent payments or the adjustments may be made by direct cash payments between the member, state, or contracting employer in connection with whom the error was made and the board~~ payment is incorrect, the board may reject the payment or accept the payment and approve any of the following methods to collect the correct amount:

(a) adjustment of subsequent payments from a member or an employer;

(b) installment payments or a lump-sum payment from an employer; or

(c) a lump-sum payment or a rollover from a member.

(2) If any fraudulent change or any inadvertent mistake in records results in any member, survivor, or beneficiary receiving more or less than entitled to, then on the discovery of the error, the board shall

correct the error and adjust the payments to the member, survivor, or beneficiary in an equitable manner."

Section 15. Section 19-2-907, MCA, is amended to read:

"**19-2-907. Alternate payees -- family law orders -- rulemaking.** (1) A participant in a retirement system may have the participant's rights modified or recognized by a family law order.

(2) For purposes of this section:

(a) "family law order" means a judgment, decree, or order of a court of competent jurisdiction under Title 40 concerning child support, parental support, spousal maintenance, or marital property rights that includes a transfer of all or a portion of a participant's payment rights in a retirement system to an alternate payee in compliance with this section; and

(b) "participant" means a member or an actual or potential beneficiary, survivor, or contingent annuitant of a retirement system designated pursuant to Title 19, chapter 3, 5, 6, 7, 8, 9, 13, or 17.

(3) A family law order must identify an alternate payee by full name, current address, and social security number. An alternate payee's rights and interests granted in compliance with this section are not subject to assignment, execution, garnishment, attachment, or other process. An alternate payee's rights or interests may be modified only by a family law order amending the family law order that established the right or interest.

(4) A family law order may not require:

(a) a type or form of benefit, option, or payment not available to the affected participant under the appropriate retirement system or plan; or

(b) an amount or duration of payment greater than that available to a participant under the appropriate retirement system.

(5) In a defined benefit plan, a family law order may only provide for payment to an alternate payee as follows:

(a) Service retirement benefit payments or ~~withdrawals of member contributions~~ refunds may be apportioned by directing payment of a percentage of the amount payable or payment of a fixed amount of no more than the amount payable to the participant.

(b) The maximum amount of disability or survivorship benefits that may be apportioned to alternate payees is the monthly benefit amount that would have been payable on the date of termination of service if the member had retired without disability or death. Conversion of a disability retirement to a service retirement pursuant to 19-2-406(4), 19-3-1015(2), 19-6-612(2), or 19-8-712(2) does not increase the

maximum monthly amount that may be apportioned to an alternate payee.

(c) Retirement benefit adjustments for which a participant is eligible after retirement may be apportioned only if existing benefit payments are apportioned. The adjustments must be apportioned in the same ratio as existing benefit payments.

(d) Payments must be limited to the life of the appropriate participant. The duration of payments to an alternate payee may be further limited only to a specified maximum time, the life of the alternate payee, or the life of a specified participant. Payments to an alternate payee may be limited to a specific amount each month if the number of payments is specified. The alternate payee's rights and interests survive the alternate payee's death and may be transferred by inheritance.

(e) The participant may be required to choose a specified form of benefit payment or designate a beneficiary or contingent annuitant if the retirement system or plan allows for that option.

(6) The board may assess a participant or an alternate payee for all costs of reviewing and administering a family law order, including reasonable attorney fees. The board may adopt rules to implement this section.

(7) Each family law order establishing a final obligation concerning payments by the retirement system must contain a statement that the order is subject to review and approval by the board.

(8) The board shall adopt rules to provide for the application of a family law order within the defined contribution plan."

Section 16. Section 19-2-908, MCA, is amended to read:

"**19-2-908. Time of commencement of benefit -- rulemaking.** (1) (a) The board shall grant a benefit to any member, or the member's statutory or designated beneficiary, who has fulfilled all eligibility requirements, terminated covered service, and filed the appropriate written application with the board. However, the board may, on its own accord and without a written application, begin benefit payments to a member or beneficiary in order to comply with section 401(a)(9) of the Internal Revenue Code.

(b) A member may apply for retirement benefits before terminating covered service, but commencement of the benefits must be as provided in this section.

(2) (a) Except as provided in subsection (2)(b), the service retirement benefit may commence on the first day of the month following the eligible member's last day of membership service or, if requested by the inactive member in writing, on the first day of a later month following ~~receipt~~ filing of the written application.

(b) If an elected official's term of office expires before the 15th day of the month, the official may elect that service retirement benefits from a defined benefit plan commence on the first day of the month following the official's last full month in office. An official electing this option shall file a written application with the board. An official electing this option may not earn membership service, service credit, or compensation for purposes of calculating ~~final~~ highest average ~~salary~~ compensation or final average compensation, as defined under the provisions of the appropriate retirement system, in the partial month ending the official's term, and compensation earned in that partial month is not subject to employer or employee contributions.

(3) The disability retirement benefit payable to a member must commence on the day following the member's termination from service.

(4) Monthly survivorship benefits from a defined benefit plan must commence on the day following the death of the member.

(5) Estimated and finalized benefit payments must be issued as provided in rules adopted by the board.

(6) With respect to the defined contribution plan, the board shall adopt rules regarding the commencement of benefits that are consistent with applicable provisions of the Internal Revenue Code and its implementing regulations."

Section 17. Section 19-2-909, MCA, is amended to read:

"**19-2-909. Execution or withholding for support obligation -- rulemaking.** (1) Benefits in the retirement systems or plans provided for in chapters 3, 5 through 9, 13, and 17 are subject to execution and income withholding for the payment of a participant's support obligation.

(2) For purposes of this section, the following definitions apply:

(a) "Execution" means a warrant for distraint issued or a writ of execution obtained by the department of public health and human services when providing support enforcement services under Title IV-D of the Social Security Act.

(b) "Income withholding" means an income-withholding order issued under the provisions of Title 40, chapter 5, part 3 or 4, or an income-withholding order issued in another state as provided in 40-5-157.

(c) "Participant" means a member or an actual or potential beneficiary, survivor, or contingent annuitant of a retirement system or plan designated pursuant to Title 19, chapter 3, 5, 6, 7, 8, 9, 13, or 17.

(d) "Support obligation" has the meaning provided in 40-5-403 for a support order.

(3) The execution or income-withholding order may not require:

(a) a type or form of benefit, option, or payment not available to the affected participant under the appropriate retirement system or plan; or

(b) an amount or duration of payment greater than that available to a participant under the appropriate retirement system or plan.

(4) An execution or income-withholding order applied to a defined benefit retirement plan may provide for payment only as follows:

(a) Service retirement benefit payments or ~~withdrawals of member contributions~~ refunds may be apportioned by directing payment of a percentage of the amount payable or payment of a fixed amount of no more than the amount payable to the participant.

(b) The maximum amount of disability or survivorship benefits that may be apportioned and paid under this section is the monthly benefit amount that would have been payable on the date of termination of service if the member had retired without disability or death.

(c) Retirement benefit adjustments for which a participant is eligible after retirement may be apportioned only if existing benefit payments are apportioned. The adjustments must be apportioned in the same ratio as existing benefit payments.

(d) Payments must be limited to the life of the appropriate participant. The duration of payments under this section may be further limited only to a specified maximum time or the life of a specified participant. Payments may also be limited to a specific amount each month if the number of payments is specified.

(5) The board shall adopt rules to provide for the application of an execution or income-withholding order within the defined contribution plan."

Section 18. Section 19-3-108, MCA, is amended to read:

"**19-3-108. (Temporary) Definitions.** Unless the context requires otherwise, as used in this chapter, the following definitions apply:

(1) "Compensation" means remuneration paid out of funds controlled by an employer before any pretax deductions allowed by state or federal law are made. Compensation does not include the payments or contributions made in lieu of wages for an individual subject to 19-3-403(4)(a).

(2) "Contracting employer" means any political subdivision or governmental entity that has

contracted to come into the system under this chapter.

(3) "Employer" means the state of Montana, its university system or any of the colleges, schools, components, or units of the university system for the purposes of this chapter, or any contracting employer, except that a nonprofit mental health corporation established pursuant to 53-21-204 may not be an employer with regard to employees hired after June 30, 1999.

(4) "Employer contributions" means payments to the pension trust fund pursuant to 19-3-316 from appropriations of the state of Montana and from contracting employers.

(5) ~~"Final~~ "Highest average ~~salary~~ compensation" means a member's highest average monthly compensation during any 36 consecutive months of membership service. Lump-sum payments for severance pay, sick leave, and annual leave paid to the member upon termination of employment may be used in the calculation of a retirement benefit only to the extent that they are used to replace, on a month-for-month basis, the regular compensation for a month or months included in the calculation of the ~~final~~ highest average ~~salary~~ compensation. A lump-sum payment may not be added to a single month's compensation.

19-3-108. (Effective on occurrence of contingency or July 1, 2002, whichever is earlier) Definitions. Unless the context requires otherwise, as used in this chapter, the following definitions apply:

(1) "Compensation" means remuneration paid out of funds controlled by an employer before any pretax deductions allowed by state or federal law are made. Compensation does not include the payments or contributions made in lieu of wages for an individual subject to 19-3-403(4)(a).

(2) "Contracting employer" means any political subdivision or governmental entity that has contracted to come into the system under this chapter.

(3) "Defined benefit plan" means the plan within the public employees' retirement system established in 19-3-103 that is not the defined contribution plan.

(4) "Employer" means the state of Montana, its university system or any of the colleges, schools, components, or units of the university system for the purposes of this chapter, or any contracting employer, except that a nonprofit mental health corporation established pursuant to 53-21-204 may not be an employer with regard to employees hired after June 30, 1999.

(5) "Employer contributions" means payments to a pension trust fund pursuant to 19-3-316 from appropriations of the state of Montana and from contracting employers.

(6) ~~"Final~~ "Highest average ~~salary~~ compensation" means a member's highest average monthly compensation during any 36 consecutive months of membership service. Lump-sum payments for

severance pay, sick leave, and annual leave paid to the member upon termination of employment may be used in the calculation of a retirement benefit only to the extent that they are used to replace, on a month-for-month basis, the regular compensation for a month or months included in the calculation of the ~~final~~ highest average ~~salary~~ compensation. A lump-sum payment may not be added to a single month's compensation.

(7) "System" or "retirement system" means the public employees' retirement system established in 19-3-103."

Section 19. Section 19-3-403, MCA, is amended to read:

"**19-3-403. Exclusions from membership.** The following persons may not become members of the retirement system:

(1) inmates of state institutions;

(2) persons in state institutions principally for the purpose of training but who receive compensation;

(3) independent contractors;

(4) persons who are members of any other retirement or pension system supported wholly or in part by funds of the United States government, any state government, or political subdivision of the state and who are receiving credit in the other system for service. It is the purpose of this subsection to prevent a person from receiving credit for the same service in two retirement systems supported wholly or in part by public funds, except when the service qualifies, is applied for, and is purchased pursuant to 19-3-503. A member of the retirement system who, because of employment by the state, is required to become a member of any other system described in this subsection is considered, solely for the purposes of making regular contributions, as permanently separated from service. Exclusion under this subsection is subject to the following exceptions:

(a) When an employer has entered into a collective bargaining agreement that includes provisions for payments or contributions by the employer in lieu of wages to a retirement or pension plan qualified by the internal revenue service for its employees, the employees remain eligible, if otherwise qualified, for membership in the retirement system.

(b) For the purpose of this subsection (4), persons receiving pensions, retirement benefits, or other payments from any source on account of employment other than as an employee are not considered, because of receipt, members of any other retirement or pension system.

(5) court commissioners, elected officials, or appointive members of any board or commission who serve the state or any contracting employer intermittently and who are paid on a per diem basis;

(6) full-time students employed at and attending the same public elementary school, high school, community college, or unit of the state university system, except that a person excluded from membership as a student of a public community college or a unit of the state university system who later becomes ~~a~~ an active member by otherwise becoming an employee may affirmatively exercise the option of ~~qualifying~~ purchasing the service excluded by this subsection by applying to the board in writing after becoming ~~a~~ an active member and become eligible to receive credited service for the excluded service under the provisions of 19-3-505."

Section 20. Section 19-3-412, MCA, is amended to read:

"19-3-412. Optional membership. (1) The following employees in covered employment may become members of the retirement system at their option by filing an irrevocable, written application with the board within 180 days of commencement of their employment:

(a) elected officials of the state or local governments who are paid on a salary or wage basis rather than on a per diem or other reimbursement basis;

(b) employees serving in employment that does not cumulatively exceed a total of 960 hours of covered employment with all employers under this chapter in any fiscal year;

(c) employees directly appointed by the governor;

(d) employees working 6 months or less for the legislative branch to perform work related to the legislative session;

(e) the chief administrative officer of any city or county;

(f) employees of county hospitals or rest homes in counties of the third, fourth, fifth, sixth, and seventh class.

(2) Employees and officials described in subsections (1)(a) through (1)(f) who are employees or officials but not members on July 1, 1999, have until December 1, 1999, to file an irrevocable, written application with the board.

(3) If an employee declines optional membership, the employee shall ~~execute~~ sign a statement waiving membership and ~~the~~ file it with the employer. The employer shall file the statement with the board and retain a copy of the statement. An employee who declines optional membership may not receive membership credit or service credit for the employment for which membership was declined.

(4) An employee who declined optional membership but later becomes a member may ~~qualify~~ purchase service credit for the period of time beginning with the date of employment in which membership was declined to the commencement of membership. ~~Qualification~~ Purchase of service pursuant to this subsection must comply with 19-3-505.

(5) Membership in the retirement system is not optional for an employee who is already a member. Upon employment in a position for which membership is optional:

(a) a member who was an active member before the employment remains an active member;

(b) a member who was an inactive member before the employment becomes an active member; and

(c) a member who was a retired member before the employment is subject to part 11 of this chapter.

(6) An employee who declines membership while employed in a position for which membership is optional may not later become a member while still employed in that position. If, after a break in service of 30 days or more, an employee who was a member in an optional membership position is reemployed in the same position or is employed in a different position for which membership is optional, the employee shall again choose or decline membership. However, if the break in service is less than 30 days, an employee who declined membership is bound by the employee's original decision to decline membership.

(7) An employee accepting a position that requires membership shall become a member even if the employee previously declined membership and did not have a 30-day break in service.

(8) If an employee or official fails to file with the board an irrevocable, written application within the time allowed in this section, the employee or official waives membership."

Section 21. Section 19-3-503, MCA, is amended to read:

"**19-3-503. (Temporary) ~~Election~~ Application to ~~qualify~~ purchase military service.** (1) (a) Except as otherwise provided in ~~subsection (2)~~ this section, a member with at least 10 years ~~or more~~ of membership service ~~credits~~ may, at any time prior to retirement, ~~make~~ file a written ~~election~~ application with the board to purchase service ~~credits~~ credit for ~~all or any portion~~ up to 5 years of the member's active service in the armed forces of the United States, including the first special service force or the American merchant marine in oceangoing service during the period of armed conflict, December 7, 1941, to August 15, 1945~~, up to a maximum of 5 years, if the member is not otherwise eligible to receive service credit for this same service pursuant to 19-2-707 or is ineligible under subsection (2)~~.

(b) Except as provided in subsection (3)(b), to ~~qualify~~ purchase this military service, the member shall ~~contribute to the pension trust fund~~ pay the actuarial cost of the member's military service ~~credit~~, based on the system's most recent actuarial valuation ~~of the system~~.

(2) ~~If a~~ A member is not eligible to purchase military service under this section if the member:

(a) has retired from active duty in the armed forces of the United States, including the first special service force or the American merchant marine in oceangoing service during the period of armed conflict, December 7, 1941, to August 15, 1945, with a military service retirement benefit~~, the member may not qualify the member's military service under subsection (1) or (3)~~ based on that military service;~~.~~

(b) is eligible, pursuant to 19-2-707, to receive credit in the system for that service; or

(c) is eligible to receive credit for that service in any other retirement system or plan.

(3) (a) A member may, prior to retirement, ~~receive~~ purchase up to 4 years of creditable service for active service in the armed forces of the United States, which includes the army, navy, marine corps, air force, and coast guard, during the Korean conflict between June 1, 1950, and January 31, 1955, and the Vietnam conflict between December 22, 1961, and May 7, 1975, dates inclusive, if the member has at least 10 years of membership service in the retirement system and is not otherwise ineligible under subsection (2).

(b) To ~~qualify this~~ purchase service under subsection (3)(a), a member shall:

(i) ~~submit to~~ file with the board a completed application form and proper certification of the member's military service; and

(ii) ~~contribute~~ pay to the pension trust fund the amount determined by the board to be due, based on the member's compensation and regular contribution rate ~~as of~~ in the member's 11th year ~~and based on~~ for the 1st year purchased and, for each subsequent year purchased, an amount based on the member's compensation and contribution rate in each of as many ~~succeeding~~ years succeeding the member's 11th year as are required to ~~qualify this service~~ complete the purchase, with regular interest from the date on which the member becomes eligible for this benefit to the date on which the ~~member makes the required contribution~~ purchase is complete.

(c) Service ~~qualified~~ purchased pursuant to this subsection (3) is in addition to the service that may be ~~qualified~~ purchased under subsection (1), except that a member may not receive duplicate credit for the same years of military service.

(d) A member purchasing service under this subsection (3) may not purchase more military service than the member has membership service in excess of 10 years. (Terminates July 1, 2001--sec. 4, Ch.

494, L. 1999.)

19-3-503. (Effective July 1, 2001) ~~Election~~ Application to ~~qualify~~ purchase military service. (1) (a) Except as provided in ~~subsection (2)~~ subsection (2) and subject to [section 29], a member with at least 10 years ~~or more~~ of service ~~credits~~ credit may, at any time prior to retirement, ~~make~~ file a written ~~election~~ application with the board to purchase service ~~credits~~ credit for ~~all or any portion~~ up to 5 years of the member's active service in the armed forces of the United States, including the first special service force or the American merchant marine in oceangoing service during the period of armed conflict, December 7, 1941, to August 15, 1945~~, up to a maximum of 5 years, if the member is not otherwise eligible to receive service credit for this same service pursuant to 19-2-707 or is ineligible under subsection (2)~~.

(b) To ~~qualify~~ purchase this service, the member shall ~~contribute to the pension trust fund~~ pay the actuarial cost of the member's military service ~~credit~~, based on the system's most recent actuarial valuation ~~of the system~~.

(2) ~~If a~~ A member is not eligible to purchase military service under this section if the member:

(a) has retired from active duty in the armed forces of the United States, including the first special service force or the American merchant marine in oceangoing service during the period of armed conflict, December 7, 1941, to August 15, 1945, with a military service retirement benefit~~, the member may not qualify the member's military service under subsection (1)~~ based on that military service;

(b) is eligible, pursuant to 19-2-707, to receive credit in the system for that service; or

(c) is eligible to receive credit for that service in any other retirement system or plan."

Section 22. Section 19-3-505, MCA, is amended to read:

"19-3-505. ~~Qualification~~ Purchase of previous employment with employer. (1) Subject to the provisions of this section, a member who has employment for which optional membership was declined or employment with an employer prior to the employer's contract coverage may ~~request~~ file a written application with the board to ~~qualify~~ purchase all or a portion of the employment ~~as membership service by filing written application with the board~~ for service credit. The application must include salary information certified by the member's employer or former employer.

(2) (a) A purchase of service under this section is subject to the board's approval.

(b) If the board approves the ~~application~~ request, the member shall pay ~~to the board the sum of~~ the amount that the member and the member's employer would have contributed during the period of employment as if the employment had been covered by the retirement system and shall pay the regular

interest that would have accumulated on the amount to the time of payment. However, the employer may pay the employer's portion, including accrued regular interest as provided in subsection ~~(2)(b)~~ (2)(c).

~~(b)~~(c) The employer shall establish a policy as to the payment of retroactive employer contributions and apply this policy indiscriminately for all employees and former employees. All employee appeals of discrimination are subject to the determination of the board. All successful appeals obligate the employer to pay the employer and employee contributions with accrued interest for that employee filing the appeal with the board. Each appeal must be heard on its individual merits and may not bind the employer to pay all retroactive payments for all former and present employees.

~~(3) A member may secure service credit not previously credited by submitting salary information certified by the member's employer or former employer to the board. The board shall determine the eligibility of all service credit requests.~~"

Section 23. Section 19-3-509, MCA, is amended to read:

"**19-3-509. ~~Qualification~~ Purchase of other Montana public service.** (1) (a) A member may, at any time before retirement, ~~make~~ file a written ~~election~~ application with the board to ~~qualify~~ purchase as service in this retirement system all or any portion of the member's service credit in the highway patrol officers', sheriffs', game wardens' and peace officers', firefighters' unified, or municipal police officers' retirement system ~~for which~~ to the extent that the member either has received or is eligible to receive a refund of membership contributions. To ~~qualify~~ purchase this service, the member shall ~~contribute to the pension trust fund~~ pay the actuarial cost of ~~granting~~ the service in the public employees' retirement system, as determined by the board, based on the system's most recent actuarial valuation minus the employer contribution provided in subsection (1)(b).

(b) Upon receiving the member's payment under subsection (1)(a), the board shall transfer from the member's former retirement system to the public employees' retirement system an amount equal to the employer contributions made during the member's service but no more than an amount equal to the normal cost contribution rate minus the employee contribution rate in the public employees' retirement system, according to the most recent actuarial valuation, based on the salaries earned by the employee as a member of the former system.

(2) (a) A member may, at any time before retirement, ~~make~~ file a written ~~election~~ application with the board to ~~qualify~~ purchase any full-time public service employment performed for the state or a political subdivision of the state. The member shall provide salary and employment documentation certified by the

member's former public employer. ~~The board may grant service credit upon contribution by~~ To purchase service under this section, the employee ~~of~~ shall pay the actuarial cost of ~~granting this~~ the service in the public employees' retirement system, as determined by the board, based on the system's most recent actuarial valuation ~~of the system~~.

(b) The board is the sole authority under this subsection (2) in determining what constitutes full-time public service."

Section 24. Section 19-3-510, MCA, is amended to read:

"**19-3-510. Employment in United States government.** (1) A member who is assigned to an agency of the United States government under Title IV, the Intergovernmental Personnel Act of 1970, may ~~qualify~~ purchase the federal employment as service in the retirement system under subsection (2)~~, provided that~~ if:

(a) the member has accrued 5 years or more of membership service in the retirement system; and

(b) the member returns to full-time service with the former state or local government employer for at least 1 year after completing employment in the United States government.

(2) A member of the retirement system who is assigned to an agency of the United States government has the option to:

(a) continue the member's payments into the pension trust fund; or

(b) ~~qualify~~ purchase the period of federal employment under this section within 2 years after return to service under the retirement system.

(3) Salary earned while on assignment to an agency of the United States government must be considered compensation for the purposes of the retirement system and may be included in the determination of ~~final~~ highest average ~~salary~~ compensation, provided that the ~~final~~ highest average ~~salary~~ compensation ~~cannot~~ does not exceed 100% of the member's highest annual compensation earned as a state or local government employee."

Section 25. Section 19-3-511, MCA, is amended to read:

"**19-3-511. Transfer and purchase of service credits and contributions from teachers' retirement system.** (1) ~~An~~ Except as provided in subsection (3)(b), an active member may, at any time before retirement ~~make~~, file a written ~~election~~ application with the board to ~~qualify~~ purchase in the public employees' retirement system ~~all of~~ the member's service in the teachers' retirement system ~~for which~~ to

the extent that the member has either ~~has~~ received or is eligible to receive a refund for the service.

(2) ~~The amount that must be paid or transferred to the retirement system to qualify~~ The cost of purchasing ~~this~~ service under this section is the sum of subsections (2)(a) and (2)(b) as follows:

(a) The teachers' retirement system shall transfer an amount equal to 72% of the amount payable by the member.

(b) The member shall pay either directly or by transferring contributions on account with the teachers' retirement system an amount equal to the member's accumulated contributions at the time that active membership was terminated with the teachers' retirement system, plus accrued interest. Interest must be calculated from the date of termination until payment is received by the public employees' retirement system, based on the interest tables in use by the teachers' retirement system.

(3) (a) The amount of service credit granted in subsection (1) must be on a month-by-month basis.

(b) ~~Military service~~ Service credit transferred from the teachers' retirement system ~~must be included in the 5-year maximum military service credit provided for in 19-3-503~~ is subject to the provisions and limitations of [section 28].

(4) Subject to the provisions of 19-2-403, the board is the sole authority in determining the amount of service credit ~~qualified~~ that a member may purchase under this section and the amount paid to the retirement system under subsection (2).

(5) If an active member who also has service credit in the teachers' retirement system dies before the member ~~qualifies~~ purchases this service in the public employees' retirement system and if the service credits from both systems, when combined, entitle the member's designated beneficiary to a survivorship benefit, the payment of the survivorship benefit is the liability of the public employees' retirement system. Before payment of the survivorship benefit, the teachers' retirement board shall transfer to the public employees' retirement system the contributions necessary to ~~qualify~~ purchase this service in the public employees' retirement system, as provided in subsection (2).

(6) If the board determines that a member was erroneously classified and reported to the teachers' retirement system, the member's accumulated contributions and service, together with the employer contributions plus interest, must be transferred to the public employees' retirement system. Employee and employer contributions due as calculated under 19-3-315 and 19-3-316 are the liability of the employee and the employing entity, respectively, where the error occurred. For the period of time that the employer contributions are held by the teachers' retirement system, interest paid on employer contributions transferred under this subsection must be calculated at the short-term investment pool rate earned by the

board of investments in the fiscal year preceding the transfer request."

Section 26. Section 19-3-512, MCA, is amended to read:

"**19-3-512. ~~Qualification~~ Purchase of service from other public retirement systems.** (1) ~~A~~ Subject to [section 28], a member with at least 5 ~~or more~~ years of membership service in the public employees' retirement system may ~~qualify~~ purchase:

(a) public service employment covered under a public retirement system other than a system provided for in Title 19 for which the member received a refund of the member's membership contribution; and

(b) public service employment that occurred before the public employer adopted a public retirement system.

(2) A member may not ~~qualify~~ purchase more than 5 years of service under this section. To ~~qualify~~ purchase this service, a member shall:

(a) at any time before retirement ~~make~~, file a written ~~election~~ application with the board ~~to qualify the service~~; and

(b) ~~contribute to the pension trust fund~~ pay the actuarial cost of ~~granting~~ the service in the public employees' retirement system, as determined by the board, based on the system's most recent actuarial valuation ~~of the system~~.

(3) Service ~~qualified~~ purchased under this section may not be used to qualify a member to purchase military service under 19-3-503.

(4) Service ~~qualified~~ purchased under this section may not be used in calculating a member's retirement benefit unless the member's last 5 years of service credit were earned under the public employees' retirement system. If ~~a~~, upon the member's retirement, the member's ~~qualified~~ purchased service ~~may not~~ cannot be used in calculating the member's retirement benefit, the member ~~may choose to~~ must receive a refund of the ~~accumulated contributions made~~ amount paid to ~~qualify~~ purchase the service, plus regular interest on that amount."

Section 27. Section 19-3-513, MCA, is amended to read:

"**19-3-513. (Temporary) ~~Election~~ Application to purchase additional service.** (1) ~~At any time before retirement, a person who has 5 years or more of membership service may make a written election with the board to purchase additional service credit for the purpose of calculating the member's retirement benefit.~~

~~Except as provided in subsection (3), the~~ Subject to [section 28], a member with at least 5 years of membership service may, at any time before retirement, file a written application with the board to purchase 1 year of additional service credit for each 5 years of membership service that the member has ~~qualified under~~ in the retirement system~~, up to a maximum of 5 years of additional service~~.

(2) ~~For each year of service credit purchased under this section~~ To purchase service under this section, a member shall ~~contribute to the pension trust fund~~ pay the actuarial cost of the service credit, based on the system's most recent actuarial valuation ~~of the system~~.

(3) ~~(a) Except as provided in subsection (3)(b), a member may elect to qualify a combined total of 5 years of service under 19-3-512 or this section.~~

~~(b) A member who has purchased service under 19-3-503 or 19-3-512 on or before January 1, 1990, and who elects to purchase service under this section must receive credit for the full months of service purchased on or before January 1, 1990.~~

~~(4)~~ Service purchased under this section is not membership service and may not be used to qualify a member for service retirement. (Terminates July 1, 2001--sec. 4, Ch. 494, L. 1999.)

19-3-513. (Effective July 1, 2001) ~~Election~~ Application to purchase additional service. (1) ~~At any time before retirement, a person who has 5 years or more of membership service may make a written election with the board to purchase additional service credit for the purpose of calculating the member's retirement benefit. Except as provided in subsection (3), the~~ Subject to [section 29], a member with at least 5 years of membership service may, at any time before retirement, file a written application with the board to purchase 1 year of additional service credit for each 5 years of membership service ~~that the member has qualified under the retirement system, up to a maximum of 5 years of additional service~~.

(2) ~~For each year of service credit purchased under this section~~ To purchase this service under this section, a member shall ~~contribute to the pension trust fund~~ pay the actuarial cost of the service ~~credit~~, based on the system's most recent actuarial valuation ~~of the system~~.

(3) ~~(a) Except as provided in subsection (3)(b), a member may elect to qualify a combined total of 5 years of service under 19-3-503, 19-3-512, or this section.~~

~~(b) A member who has purchased service under 19-3-503 or 19-3-512 on or before January 1, 1990, and who elects to purchase service under this section shall receive credit for the full months of service purchased on or before January 1, 1990.~~

~~(4)~~ Service purchased under this section is not membership service and may not be used to qualify a member for service retirement."

NEW SECTION. **Section 28. Service purchase limit -- exception.** (1) Except as provided in subsection (2), a member may not purchase more than a combined total of 5 years under 19-3-511(3)(b), 19-3-512, and 19-3-513.

(2) A member who has purchased service under 19-3-503 or 19-3-512 on or before January 1, 1990, and who elects to purchase service under 19-3-513 must receive credit for the full months of service purchased on or before January 1, 1990.

NEW SECTION. **Section 29. Service purchase limit -- exception.** (1) Except as provided in subsection (2), a member may not purchase more than a combined total of 5 years under 19-3-503, 19-3-511(3)(b), 19-3-512, and 19-3-513.

(2) A member who has purchased service under 19-3-503 or 19-3-512 on or before January 1, 1990, and who elects to purchase service under 19-3-513 must receive credit for the full months of service purchased on or before January 1, 1990.

Section 30. Section 19-3-901, MCA, is amended to read:

"**19-3-901. Eligibility for service retirement.** (1) A member who has attained the age of 60 and has 5 years of membership service is eligible for service retirement. A member who has attained age 65 while employed in a position covered by a public employees' retirement system is eligible for service retirement regardless of the member's years of membership service. A member who has 30 years or more of membership service is eligible for service retirement regardless of the member's age.

(2) In each of the circumstances described in subsection (1), the member has attained normal retirement age."

Section 31. Section 19-3-904, MCA, is amended to read:

"**19-3-904. Amount of service retirement benefit.** The monthly amount of retirement benefit payable to a member following service retirement is the greater of subsection (1) or (2) as follows:

(1) one fifty-sixth of the member's ~~final~~ highest average ~~salary~~ compensation multiplied by the number of years of the member's total service credit; or

(2) a monthly benefit that is the sum of:

(a) the actuarial equivalent of double the member's regular contributions ~~plus~~ and regular interest; plus

(b) the actuarial equivalent of any additional contributions and regular interest."

Section 32. Section 19-3-1002, MCA, is amended to read:

"**19-3-1002. Eligibility for disability retirement.** (1) Except as provided in subsections (2) and (3), a member entering service prior to February 24, 1991, who is not eligible for service or early retirement but has at least 5 years of membership service and has become disabled while an active member is eligible for disability retirement, as provided in 19-3-1008(1).

(2) An active member age 60 or older who has completed 5 years of membership service and has had a duty-related accident forcing the member to terminate employment but who has not received or is ineligible to receive workers' compensation benefits under Title 39, chapter 71, for the duty-related accident may conditionally waive the member's eligibility for a service retirement in order to be eligible for disability retirement. The waiver is effective only upon approval by the board of the member's written application for disability retirement. The board shall determine whether a member has become disabled. The board may request any information on file with the state compensation insurance fund concerning any duty-related accident. If information is not available, the board may request and the state fund shall then provide an investigative report on the disabling accident.

(3) (a) A member in service on February 24, 1991, has a one-time election to be covered for disability purposes under the provisions of 19-3-1008(2). This election is irrevocable and must be made in writing by the member no later than December 31, 1991. Coverage under the provisions of 19-3-1008(2) commences on the date the completed written election ~~form~~ is received by the board or its designated representative. To be eligible for disability benefits under the provisions of this part, a member must have completed 5 years of membership service and must have become disabled while an active member.

(b) An individual becoming a member after February 24, 1991, who has completed 5 years of membership service and has become disabled while an active member is covered for disability purposes under the provisions of 19-3-1008(2)."

Section 33. Section 19-3-1005, MCA, is amended to read:

"**19-3-1005. Application for disability retirement benefit.** The board shall grant a disability retirement benefit to any member who has fulfilled the eligibility requirements of 19-3-1002 and filed the appropriate written application with the board. An application may be filed on a member's behalf by the

head of the office or department in which the member is or was last employed, ~~or~~ by any other person on behalf of the member, or by the board upon its own motion ~~may make the application~~. ~~Application~~ The application must be ~~made~~ filed within 4 months after the member's termination from service unless the member is disabled continuously from the date of termination from service to the date of the application."

Section 34. Section 19-3-1007, MCA, is amended to read:

"**19-3-1007. Benefit for duty-related disability.** (1) The retirement benefit payable to a member eligible for disability retirement for duty-related reasons and granted prior to July 1, 1977, is 50% of the member's ~~final~~ highest average ~~salary~~ compensation.

(2) ~~Any~~ A retired member receiving a disability retirement benefit on July 1, 1977, who has previously been granted a duty-related disability under provisions in effect on June 30, 1977, is subject to the provisions of this section after July 1, 1977."

Section 35. Section 19-3-1008, MCA, is amended to read:

"**19-3-1008. Benefit for disability.** (1) The monthly amount of the retirement benefit payable to a member eligible for disability retirement under the provisions of 19-3-1002(1) is the greater of subsection (1)(a) or (1)(b) as follows:

(a) 90% of one fifty-sixth of the member's ~~final~~ highest average ~~salary~~ compensation multiplied by the member's years of service credit, including any additional service purchased under 19-3-513; or

(b) a retirement benefit equal to 25% of the member's ~~final~~ highest average ~~salary~~ compensation.

(2) The monthly amount of retirement benefit payable to a member eligible for disability retirement under the provisions of 19-3-1002(3) is a retirement benefit equal to one fifty-sixth of the member's ~~final~~ highest average ~~salary~~ compensation multiplied by the member's years of service credit, including any additional service purchased under 19-3-513.

(3) Subject to the provisions of part 11 of this chapter, a retired member receiving a disability retirement benefit on February 24, 1991, who has previously been granted a disability retirement benefit under the provisions of this section will continue to receive the monthly disability retirement benefit as calculated prior to February 24, 1991, subject to any postretirement or cost-of-living increases granted by the legislature."

Section 36. Section 19-3-1015, MCA, is amended to read:

"19-3-1015. Medical examination of disability retiree -- cancellation and reinstatement. (1) The board may, in its discretion, require a disabled member to undergo a medical examination. The examination must be made by a physician or surgeon appointed by the board, at a place mutually agreed upon by the retired member and the board. Upon the basis of the examination, the board shall determine whether the disabled member is unable, by reason of physical or mental incapacity, to perform the essential elements of either the position held by the member when the member retired or the position proposed to be assigned to the member. If the board determines the member is not incapacitated or if the member refuses to submit to a medical examination, the member's retirement benefit must be canceled.

(2) If the board determines that a disabled member should no longer be subject to medical review, the board may grant service retirement status to the member without recalculating the monthly benefit. The board shall notify the member in writing as to the change in status. If the disabled member disagrees with the board's determination, the member may ~~make~~ file a written application ~~to the board to request~~ with the board requesting that the board ~~to~~ reconsider its action. The written application for reconsideration must be ~~made~~ filed within 60 days after receipt of the notice of the status change.

(3) (a) Except as provided in subsections (3)(b) and (3)(c), a member whose disability retirement benefit is canceled because the board has determined that the member is no longer incapacitated must be reinstated to the position held by the member immediately before the member's retirement or to a position in a comparable pay and benefit category with duties within the member's capacity if the member was an employee of the state or of the university. If the member was an employee of a contracting employer, the board shall notify the proper official of the contracting employer that the disability retirement benefit has been canceled and that the former employee is eligible for reinstatement to duty. The fact that the former employee was retired for disability may not prejudice any right to reinstatement to duty that the former employee may have or claim to have.

(b) A member who is employed by an employer terminates any right to reinstatement provided by this section.

(c) This section does not affect any requirement that the former employee meet or be able to meet professional certification and licensing standards unrelated to the disability and necessary for reinstatement to duty.

(4) If a member whose disability retirement benefit is canceled is not reemployed in a position subject to the retirement system, the member's service is considered, for the purposes of 19-2-602, to have been discontinued coincident with the commencement of the member's retirement benefit."

Section 37. Section 19-3-1103, MCA, is amended to read:

"19-3-1103. Disability benefit reduced by earnings ~~-- change in retirement status~~. (1) (a) If the recipient of a disability retirement benefit engages in a gainful occupation during any month other than in a position covered by the retirement system, the amount of the recipient's retirement benefit for that month must be reduced to an amount that, when added to the compensation earned by the recipient in that occupation, does not exceed the amount of the recipient's monthly compensation at the time of the recipient's retirement.

(b) The board~~, upon the written application of a recipient of a disability retirement benefit, may~~ shall annually adjust the recipient's monthly compensation as it was at the time of retirement by an inflationary factor if the recipient has been receiving a disability retirement benefit for more than 36 consecutive months.

(2) ~~At the request of a recipient of a disability retirement benefit who is age 60 or older, the board may grant service retirement status to the recipient without recalculating the recipient's monthly benefit.~~

~~(3)~~ Benefit adjustments granted by the legislature may not be included in calculations required under this section."

Section 38. Section 19-3-1105, MCA, is amended to read:

"19-3-1105. Benefit upon second retirement. (1) Except as otherwise expressly provided by law, a member with at least 2 years of service credit accrued after reemployment must receive the benefit of provisions enacted after the member's initial retirement, but only with respect to the service credit earned after reemployment.

(2) Upon retirement subsequent to a cancellation under 19-3-1104, a member ~~shall~~ must receive a recalculated benefit as provided in 19-3-904. The recalculated benefit is based on service credit accumulated at the time of the member's previous retirement plus any service credit accumulated subsequent to reemployment.

~~(2) Except as otherwise expressly provided by law, the member must receive the benefit of provisions enacted subsequent to initial retirement only if the member accrues at least 2 years of service credit subsequent to reinstatement and then only with respect to the service credit.~~"

Section 39. Section 19-3-1106, MCA, is amended to read:

"19-3-1106. Limited reemployment -- reduction of service retirement benefit upon exceeding limits

-- **exception.** (1) A retired member under 65 years of age who is receiving a service retirement benefit may return to employment covered by the retirement system for a period not to exceed 640 hours in any calendar year without returning to active service and without any effect to the retiree's retirement benefit. The retirement benefit for any retiree exceeding this 640-hour limitation in any calendar year after retirement must be temporarily reduced $1 for each $1 earned after working 640 hours in that calendar year.

(2) A retiree 65 years of age or older who returns to employment covered by the retirement system is either subject to the 640-hour limitation of subsection (1) or may earn in any calendar year an amount that, when added to the retiree's current annual retirement benefits, will not exceed the member's annualized ~~final~~ highest average ~~salary~~ compensation, adjusted for inflation as of January 1 of the current calendar year, whichever limitation provides the higher limit on earned compensation to the retiree. Upon reaching the applicable limitation, the retiree's benefits must be temporarily reduced $1 for each $1 of compensation earned in covered service beyond the applicable limitation during that calendar year.

(3) A retiree returning to employment covered by the retirement system and the returning employee's employer shall certify to the board the number of hours worked by the retiree and the gross compensation paid to the retiree in that employment during any month after retirement.

(4) A retiree returning to employment covered by the retirement system may elect to return to active membership at any time during this period of covered employment.

(5) A retired member 70 1/2 years of age or older who returns to employment covered by the retirement system is not subject to the hour or earnings limitations in subsections (1) and (2) or the reporting requirements in subsection (3)."

Section 40. Section 19-3-1203, MCA, is amended to read:

"**19-3-1203. Election of optional death annuity.** The designated beneficiary of a member may elect, by filing a written application with the board, to have the lump-sum death payment paid in an actuarially equivalent form, subject to ~~the~~ rules that the board may adopt. ~~Election of an optional death annuity must be by written application.~~ The annuity payments are not subject to increases that may be granted to other monthly retirement benefits."

Section 41. Section 19-3-1204, MCA, is amended to read:

"**19-3-1204. Survivorship benefit elected by beneficiary.** (1) A designated beneficiary eligible to

receive a lump-sum death payment may instead elect~~,~~ a survivorship benefit by filing a written application with the board, ~~a survivorship benefit instead,~~ if all of the following conditions are met:

(a) The member on behalf of whom the death benefit is payable had completed 5 years of membership service.

(b) The designated beneficiary is a natural person.

(c) The designated beneficiary elects the survivorship benefit within 90 days of receipt of notice from the board that the designated beneficiary is eligible to receive the lump-sum death payment.

(2) The designated beneficiary of a vested member may, by filing a written application with the board, elect to receive a survivorship benefit in lieu of a lump-sum payment of the member's account.

(3) (a) If the designated beneficiary is a minor, the custodian designated in 19-2-803 may, on the minor's behalf, file a written application with the board.

(b) If an application is not filed on the minor's behalf and no payment has been made, the designated beneficiary may file a written application upon reaching the age of majority. For the purposes of this subsection (3)(b), the survivorship benefit provided for in 19-3-1205 must be calculated as if the member had died on the last day of the month before the month in which the application was filed."

Section 42. Section 19-3-1501, MCA, is amended to read:

"19-3-1501. Optional forms of benefits -- designation of contingent annuitant. (1) The retirement benefit of a member or the survivorship benefit of a designated beneficiary who ~~makes an election~~ so elects must be converted, in lieu of all other benefits under this chapter, into an optional retirement benefit that is the actuarial equivalent of the original benefit. The optional retirement benefit is initially payable during the member's or designated beneficiary's lifetime, with a subsequent benefit to ~~the~~ a contingent annuitant ~~whom the member or designated beneficiary nominated by written designation, executed and filed with the board on the application for benefits,~~ as follows:

(a) ~~Option~~ option 2--a continuation of the reduced amount after the death of the initial payee and payable during the lifetime of the named contingent annuitant;

(b) ~~Option~~ option 3--a continuation of one-half of the reduced amount after the death of the initial payee and payable during the lifetime of the named contingent annuitant;

(c) ~~Option~~ option 4--upon the initial payee's death, other actuarially equivalent amounts payable to a contingent annuitant as may be approved by the board.

(2) ~~Election of~~ The member or the designated beneficiary who elects an optional retirement benefit

~~must be by~~ shall file a written application ~~filed~~ with the board prior to the first payment of the benefit. A contingent annuitant must be identified on the application.

(3) If a benefit recipient or the recipient's contingent annuitant dies before the first payment has been made under option 2 or 3, the election of the option is automatically canceled.

(4) If a member dies after retirement and within 30 days from the date that the member's ~~election~~ written application electing or ~~changed~~ changing an election of an optional retirement benefit is received by the board, then the election is void ~~and the death is considered as that of a member before retirement~~.

(5) (a) Upon filing a written application ~~to~~ with the board, a retired member who is receiving an optional retirement benefit that became effective before October 1, 1999, may designate a different contingent annuitant, select a different option, or convert the member's optional retirement benefit to a regular retirement benefit if:

(i) the original contingent annuitant has died; or

(ii) the member's marriage to the original contingent annuitant has been dissolved and the original contingent annuitant has not been granted the right to receive the optional retirement benefit as part of the dissolution settlement or family law order.

(b) Upon receipt of the written application, the board shall actuarially adjust the member's monthly retirement benefit to reflect the change.

(6) (a) A retired member receiving an optional retirement benefit pursuant to subsection (1)(a) or (1)(b) that is initially effective on or after October 1, 1999, may file a written application with the board to have the optional retirement benefit revert to the regular retirement benefit available at the time of the member's retirement if:

(i) the contingent annuitant has died, in which case the optional benefit must revert effective on the first day of the month following the contingent annuitant's death; or

(ii) the member's marriage to the contingent annuitant is dissolved and the beneficiary was not granted the right to receive the optional retirement benefit as part of the dissolution settlement or a family law order, in which case the benefit must revert effective on the first day of the month following receipt of the written application and verification that the dissolution settlement or family law order does not grant the optional benefit to the contingent annuitant.

(b) A regular retirement benefit provided pursuant to this subsection (6) must be increased by the value of any postretirement adjustments received by the member since the effective date of the member's retirement.

(7) A written application pursuant to subsection (5) or (6) must be filed with the board within 18 months of the death of or dissolution of marriage to the contingent annuitant."

Section 43. Section 19-5-101, MCA, is amended to read:

"**19-5-101. Definitions.** Unless a different meaning is plainly implied by the context, the following definitions apply in this chapter:

(1) "Compensation" means remuneration, as defined in 2-16-403, 3-5-211, and 3-7-222, paid to a member.

(2) "Current salary" means the current compensation for the office retired from.

(3) ~~"Final~~ "Highest average ~~salary~~ compensation" means the average of the member's highest monthly compensation during any 36 consecutive months of membership service in the retirement system.

(4) "Involuntary retirement" means a retirement not for cause and before retirement age.

(5) "Retired judge" means any judge or justice in receipt of a retirement benefit under this chapter."

Section 44. Section 19-5-409, MCA, is amended to read:

"**19-5-409. ~~Election~~ Application to purchase additional service.** (1) At any time before retirement, a member may ~~make~~ file a written ~~election~~ application with the board to purchase additional service credit for the purpose of calculating the member's retirement benefit. Except as provided in subsection (3), the member may purchase 1 year of additional service credit for every 5 years of membership service that the member has ~~qualified under~~ in the retirement system.

(2) For each year of service credit purchased under this section, a member shall contribute to the pension trust fund an amount equal to the actuarial cost of granting the service, based on the most recent actuarial valuation of the system as determined by the board.

(3) A member may ~~elect to qualify no~~ not purchase more than 5 years of service under 19-2-707 and this section.

(4) Service purchased under this section is not membership service and may not be used to qualify a member for retirement or in the calculation of an actuarial reduction in benefits for a member who is not eligible for normal service retirement."

Section 45. Section 19-5-501, MCA, is amended to read:

"19-5-501. Eligibility for service retirement. (1) ~~Any~~ A member who has at least 5 years of membership service and has reached the age of 65 has attained normal retirement age and may retire and receive the ~~proportional~~ retirement benefits provided in 19-5-502.

(2) Retirement benefits may not be approved by the board while the member is drawing full compensation as a judge or justice. However, benefits may not be withheld for receiving compensation as a judge pro tempore."

Section 46. Section 19-5-502, MCA, is amended to read:

"19-5-502. Service retirement benefit. Upon retirement from service, the service retirement benefit must be as follows:

(1) for members not covered under 19-5-901, 3 1/3% ~~per~~ a year of the member's current salary for the first 15 years of credited service and 1.785% ~~per~~ a year for each year of credited service after 15 years; or

(2) for members covered under 19-5-901, the benefit provided under subsection (1) except that the benefit must be calculated using ~~final~~ highest average ~~salary~~ compensation."

Section 47. Section 19-5-503, MCA, is amended to read:

"19-5-503. Involuntary retirement benefit. (1) If a member is involuntarily discontinued from service after having completed 5 years of membership service but before reaching normal retirement age, the member ~~shall~~ must, upon filing with the board an application in the manner prescribed by the board, be paid an involuntary retirement benefit of equivalent actuarial value to the service retirement benefit payable under 19-5-502 then standing to the member's credit.

(2) If a member elected or appointed to office after July 1, 1983, is discontinued from service after having earned at least 12 years of service credit but before reaching ~~service~~ normal retirement age, the member may apply for and receive a retirement benefit that is the actuarial equivalent of benefits pursuant to subsection (1)."

Section 48. Section 19-5-601, MCA, is amended to read:

"19-5-601. Disability retirement benefit. In the case of the disability of a member, a disability retirement benefit must be granted the member in an amount actuarially equivalent to the service retirement benefit standing to the member's credit at the time of the member's disability retirement. If the

disability is a direct result of any service or duty for the Montana judiciary, the member's disability retirement benefit must be:

(1) the greater of one-half of the member's ~~final~~ current salary or the contingent annuitant's benefit, if applicable, for a person not covered under 19-5-901; or

(2) the greater of one-half of the member's ~~final~~ highest average ~~salary~~ compensation or the contingent annuitant's benefit, if applicable, for a person covered under 19-5-901."

Section 49. Section 19-5-701, MCA, is amended to read:

"**19-5-701. Optional forms of benefits -- designation of contingent annuitant.** (1) The retirement benefit of a member or the survivorship benefit of a designated beneficiary who so elects~~,~~ must be converted, in lieu of all other benefits under this chapter, into an optional retirement benefit that is the actuarial equivalent of the original benefit. The optional retirement benefit is initially payable during the member's or designated beneficiary's lifetime, with a subsequent benefit ~~payable~~ to ~~the~~ a contingent annuitant ~~that the member or designated beneficiary nominated by written designation, executed and filed with the board on the application for benefits,~~ as follows:

(a) ~~Option~~ option 2--a continuation of the reduced amount after the death of the initial payee and payable during the lifetime of the named contingent annuitant;

(b) ~~Option~~ option 3--a continuation of one-half of the reduced amount after the death of the initial payee and payable during the lifetime of the named contingent annuitant;

(c) ~~Option~~ option 4--upon the initial payee's death, other actuarially equivalent amounts payable to a contingent annuitant as may be approved by the board.

(2) ~~Election of~~ The member or designated beneficiary who elects an optional retirement benefit ~~must be by~~ shall file a written application ~~filed~~ with the board prior to the first payment of the benefit. A contingent annuitant must be identified on the application.

(3) If a benefit recipient or the recipient's contingent annuitant dies before the first payment has been made under option 2 or 3, the election of the option is automatically canceled.

(4) If the member dies after retirement and within 30 days from the date that the member's ~~election~~ written application electing or ~~changed~~ changing an election of an optional retirement benefit is received by the board, the election is void ~~and the death is considered as that of a member before retirement~~.

(5) (a) A retired member receiving an optional retirement benefit pursuant to subsection (1)(a) or

(1)(b) that is initially effective on or after October 1, 1999, may file a written application with the board to have the optional retirement benefit revert to the regular retirement benefit available at the time of the member's retirement if:

(i) the contingent annuitant has died, in which case the optional benefit must revert effective on the first day of the month following the contingent annuitant's death; or

(ii) the member's marriage to the contingent annuitant is dissolved and the beneficiary was not granted the right to receive the optional retirement benefit as part of the dissolution settlement or a family law order, in which case the benefit must revert effective on the first day of the month following receipt of the written application and verification that the dissolution settlement or family law order does not grant the optional benefit to the contingent annuitant.

(b) A regular retirement benefit provided pursuant to this subsection (5) must be increased by the value of any postretirement adjustments received by the member since the effective date of the member's retirement.

(6) A written application pursuant to subsection (5) must be filed with the board within 18 months of the death of or dissolution of marriage to the contingent annuitant.

(7) (a) Upon filing a written application ~~to~~ with the board, a retired member who is receiving an optional retirement benefit may designate a different contingent annuitant, select a different option, or convert the member's optional retirement benefit to a regular retirement benefit if:

(i) the original contingent annuitant has died; or

(ii) the member has been divorced from the original contingent annuitant and the original contingent annuitant has not been granted the right to receive the optional retirement benefit as part of the divorce settlement.

(b) Upon receipt of the written application, the board shall actuarially adjust the member's monthly retirement benefit to reflect the change."

Section 50. Section 19-5-801, MCA, is amended to read:

"19-5-801. Payments upon employment-related death. (1) If the board finds that a member died as a direct and proximate result of injury received in the course of the member's service or duty, a survivorship benefit must be paid to the member's designated beneficiary.

(2) The survivorship benefit is the greater of the following:

(a) the ~~actuarial~~ equivalent of the contingent annuitant's benefit, if applicable; or

(b) the ~~a~~ member's service retirement benefit standing to the member's credit on the date of death ~~or of the contingent annuitant's benefit, if applicable~~."

Section 51. Section 19-5-802, MCA, is amended to read:

"**19-5-802. Payments in case of death from other causes.** (1) If a retired member not covered under 19-5-901 dies without designating a contingent annuitant under 19-5-701(2), the member's designated beneficiary must be paid the amount, if any, of the member's accumulated contributions calculated as of the day of the member's retirement minus the total of any retirement benefits already paid from the member's account. At the designated beneficiary's request, the lump sum may be paid as an actuarially equivalent annuity that will not be subject to increases for any purpose.

(2) If a retired member covered under 19-5-901 dies without designating a contingent annuitant under 19-5-701(2), the member's designated beneficiary must be paid the amount, if any, of the member's accumulated contributions calculated as of the day of the member's retirement minus the total of any retirement benefits already paid from the member's account.

(3) If a member dies before reaching normal retirement age, the member's designated beneficiary is entitled to a monthly survivorship benefit that is the actuarial equivalent of the involuntary retirement ~~options~~ benefit provided in 19-5-503."

Section 52. Section 19-6-101, MCA, is amended to read:

"**19-6-101. Definitions.** Unless the context requires otherwise, the following definitions apply in this chapter:

(1) "Compensation" means remuneration paid for services to a member out of funds controlled by an employer before any pretax deductions allowed by the Internal Revenue Code have been made and exclusive of maintenance, allowances, and expenses.

(2) "Dependent child" means an unmarried child of a deceased retired member, who is:

(a) under 18 years of age; or

(b) under 24 years of age and attending an accredited postsecondary educational institution as a full-time student in anticipation of receiving a certificate or degree.

(3) ~~"Final~~ "Highest average ~~salary~~ compensation" means the highest average monthly compensation received by a member for any 3 years of continuous service upon which contributions have been made or, in the event a member has not served 3 years, the total compensation earned divided by

the number of months served. Lump-sum payments for severance pay, sick leave, and annual leave paid to an employee upon termination of service may be used in the calculation of a retirement benefit only to the extent that they are used to replace, on a month-for-month basis, the normal compensation for a month or months included in the calculation of the ~~final~~ highest average ~~salary~~ compensation. A lump-sum payment may not be added to a single month's compensation.

(4) "Surviving spouse" means the spouse married to a retired member at the time of the retired member's death.

(5) "Survivor" means a surviving spouse or dependent child of a member."

Section 53. Section 19-6-402, MCA, is amended to read:

"19-6-402. Member's contribution. (1) (a) A member not covered under 19-6-710 shall contribute into the pension trust fund 9% of the member's monthly compensation.

(b) A member covered under 19-6-710 shall contribute to the pension trust fund 9.05% of the member's monthly compensation.

(2) Each employer, pursuant to section 414(h)(2) of the federal Internal Revenue Code of 1954, as amended and applicable on July 1, 1985, shall pick up and pay the contributions that would be payable by the member under subsection (1) for service rendered after June 30, 1985.

(3) The member's contributions picked up by the employer must be designated for all purposes of the retirement system as the member's contributions, except for the determination of a tax upon a distribution from the retirement system. These contributions must become part of the member's accumulated contributions but must be accounted for separately from those previously accumulated.

(4) The member's contributions picked up by the employer must be payable from the same source as is used to pay compensation to the member and must be included in the member's wages, as defined in 19-1-102, and compensation as used to define the member's ~~final~~ highest average ~~salary~~ compensation in 19-6-101. The employer shall deduct from the member's compensation an amount equal to the amount of the member's contributions picked up by the employer and remit the total of the contributions to the board."

Section 54. Section 19-6-403, MCA, is amended to read:

"19-6-403. Refund of member's contribution. If a member willingly resigns or is discharged for cause before becoming entitled to a retirement benefit, the accumulated contributions standing to the

member's credit must be paid to the member upon the member's filing of a written application ~~to~~ with the board."

Section 55. Section 19-6-501, MCA, is amended to read:

"19-6-501. Eligibility for service retirement benefit. (1) A member first employed by the Montana highway patrol on or before July 1, 1985, has attained normal retirement age and is eligible to receive a service retirement benefit after completing 20 years or more of membership service and terminating service.

(2) A member first employed by the Montana highway patrol after July 1, 1985, has attained normal retirement age and is eligible to receive a service retirement benefit when the member has reached age 50, completed 20 years or more of membership service, and terminated service."

Section 56. Section 19-6-502, MCA, is amended to read:

"19-6-502. Service retirement benefit. Upon retirement from service, a member must receive a service retirement benefit equal to 2.5% of the member's ~~final~~ highest average ~~salary~~ compensation for each year of service credit."

Section 57. Section 19-6-505, MCA, is amended to read:

"19-6-505. Payment of retirement benefits. (1) The service retirement benefit must be paid to the retired member for the remainder of the member's life.

(2) Upon the retired member's death, the retirement benefit must be paid to the member's surviving spouse, if there is one.

(3) (a) If upon the retired member's death there is no surviving spouse or if the spouse dies, the retirement benefit must be paid as provided in subsection (3)(c) to the retired member's child, if there is one, for as long as the child remains a dependent child.

(b) If there is more than one dependent child, the retirement benefit must be paid as provided in subsection (3)(c) to the children collectively. When a child is no longer a dependent child, the pro rata payments to that child must cease and be made to the remaining child or children until all the children are no longer dependent.

(c) Payments to a dependent child must be made to the child's appointed guardian for the child's use.

(4) If a retired member dies without a surviving spouse or dependent child ~~and if the member had~~

~~designated a beneficiary as provided in 19-2-801~~, the member's designated beneficiary must be paid the amount, if any, of the retired member's accumulated contributions minus the total of any retirement benefits already paid from the member's account.

~~(5) If the retired member did not designate a beneficiary or if the beneficiary predeceased the retired patrol officer, the amount provided in subsection (4) must be paid to the member's estate.~~"

Section 58. Section 19-6-601, MCA, is amended to read:

"**19-6-601. Disability retirement benefit.** (1) In the case of the disability of a member, a disability retirement benefit must be granted the member that is the actuarial equivalent of the service retirement benefit under 19-6-502 standing to the member's credit at the time of the member's disability retirement. If the disability is a direct result of any service to the Montana highway patrol in the line of duty, then the member who is disabled must be retired on a disability retirement benefit of one-half the member's ~~final~~ highest average ~~salary~~ compensation regardless of the member's length of service.

(2) Upon the death of a retired member receiving a disability retirement benefit as provided in subsection (1), the benefit must be paid to the member's surviving spouse or dependent child, if there is a spouse or child, in the same manner as provided for in 19-6-505(2) and (3)."

Section 59. Section 19-6-612, MCA, is amended to read:

"**19-6-612. Medical examination of disability retiree -- cancellation of benefit.** (1) The board may require the recipient of a disability retirement benefit to undergo a medical examination. The examination must be made by a physician or surgeon at the recipient's place of residence or at another place mutually agreed on, at the board's expense. Upon the basis of the examination, the board shall determine whether the recipient can perform the essential elements of the position held by the recipient when the recipient retired. If the board determines that the recipient is not incapacitated, the recipient's disability retirement benefit must be canceled when the recipient is offered a position under subsection (3) or when, if a position is available, the recipient cannot be reinstated under subsection (3) for reasons unrelated to the disability. If the recipient refuses to submit to a medical examination, the recipient's disability retirement benefit must be canceled.

(2) If the board determines that a recipient of a disability retirement benefit should no longer be subject to medical review, the board may grant a service retirement status to the recipient without recalculating the recipient's monthly benefit. The board shall notify the recipient in writing as to the change

in status. If the recipient disagrees with the board's determination, the recipient may ~~submit~~ file a written application ~~to~~ with the board ~~to request~~ requesting that the board ~~to~~ reconsider its action. The request for reconsideration must be ~~made in writing~~ filed within 60 days after receipt of the notice of the status change.

(3) (a) Except as provided in subsection (3)(b), a recipient whose disability retirement benefit is canceled because the board has determined that the recipient is no longer incapacitated must be reinstated to the position held by the recipient immediately before the recipient's retirement or to a position in a comparable pay and benefit category within the recipient's capacity, whichever is first open. The fact that the recipient was retired for disability may not prejudice any right to reinstatement to duty that the recipient may have or claim to have.

(b) This section does not affect any requirement that the former employee meet or be able to meet professional certification and licensing standards unrelated to the disability and necessary for reinstatement to duty.

(4) The department of justice may request a medical or psychological review as to the ability of the recipient to return to work as a member of the highway patrol. If the board's findings are upheld, the department of justice shall pay the cost of the review."

Section 60. Section 19-6-709, MCA, is amended to read:

"**19-6-709. (Temporary) Supplemental benefits for certain retirees.** (1) In addition to any retirement benefit payable under this chapter, a retired member or a survivor determined by the board to be eligible under subsection (2) must receive an annual lump-sum benefit payment beginning in September 1991 and each succeeding year as long as the member remains eligible.

(2) To be eligible for the benefits under this section, a person must be receiving a monthly benefit before July 1, 1991, may not be covered by 19-6-710, and must be:

(a) a retired member who is 55 years of age or older and who has been receiving a service retirement benefit for at least 5 years prior to the date of distribution;

(b) a survivor of a member who would have been eligible under subsection (2)(a); or

(c) a recipient of a disability benefit under 19-6-601 or a survivorship benefit under ~~19-6-601 or~~ 19-6-901.

(3) A retired member otherwise qualified under this section who is employed in a position covered by a retirement system under Title 19 is ineligible to receive any lump-sum benefit payments provided for

in this section until the member's service in the covered position is terminated. Upon termination of the member's covered service, the retired member becomes eligible in the next fiscal year succeeding the member's termination.

(4) (a) An amount equal to 25 cents of each motor vehicle registration fee provided for in 61-3-321(5) must be paid from the general fund to the pension trust fund at the end of each fiscal year. The payment is statutorily appropriated, as provided in 17-7-502, to the pension fund for payment of benefits to eligible recipients. The total funds must be distributed by the board in lump-sum payments to eligible recipients along with their normal retirement benefit payment.

(b) The lump-sum payment must be distributed proportionally to all eligible recipients based on service credit at the time of retirement, subject to the following:

(i) a recipient under subsection (2)(c) is considered to have 20 years of service for the purposes of the distributions;

(ii) any recipient of a service retirement benefit exceeding the maximum monthly benefit under 19-6-707(2)(a) must have the recipient's service credit reduced 25% for the purposes of the distributions;

(iii) the maximum annual increase in the amount of supplemental benefits paid to each individual under this section is the percentage increase for the previous calendar year in the annual average consumer price index for urban wage earners and workers, compiled by the bureau of labor statistics of the United States department of labor or its successor agency.

(c) Any amount deposited in the pension trust fund under subsection (4)(a) for the payment of supplemental benefits under this section that exceeds the limitation of subsection (4)(b)(iii) must be used to amortize unfunded liabilities of the retirement system.

(5) Every 10 years following July 1, 1991, the board shall review the size of the additional fee collected under 61-3-321(5) and paid to the pension trust fund in accordance with subsection (4)(a) and recommend to each legislature following the board's review any legislation necessary to reduce the fee to the minimum amount necessary to provide the supplemental benefits provided by this section. (Terminates upon death of last eligible recipient--sec. 1, Ch. 567, L. 1991.)"

Section 61. Section 19-6-801, MCA, is amended to read:

"**19-6-801. ~~Election~~ Application to ~~qualify~~ purchase military service.** (1) ~~A~~ Except as otherwise provided in this section and subject to [section 65], a member with at least 15 years ~~or more~~ of service credit ~~with the Montana highway patrol~~ may, at any time prior to retirement, ~~make~~ file a written ~~election~~

application with the board to ~~qualify~~ purchase ~~all or any portion~~ up to 5 years of the member's active service in the armed forces of the United States for the purpose of calculating retirement benefits~~, up to a maximum of 5 years, if the member is not otherwise eligible to receive service credit for this same service pursuant to 19-2-707~~.

(2) To ~~qualify~~ purchase this military service:

(a) a member who is not covered by 19-6-710 shall contribute ~~to the account~~ the amount determined by the board to be due based on the member's compensation and regular contribution rate ~~as of~~ in the member's 16th year ~~and as many succeeding years as are required to qualify this service~~ for the 1st year purchased and, for each subsequent year purchased, an amount based on the member's compensation and contribution rate in each of as many years succeeding the member's 16th year as are required to complete the purchase, with regular interest from the date the member becomes eligible for this benefit to the date the ~~member contributes~~ purchase is complete. The member may not ~~qualify~~ purchase more ~~of this~~ military service under this subsection (2)(a) than the member has service ~~with the Montana highway patrol~~ credit in excess of 15 years.

(b) a member who is covered by 19-6-710 shall ~~contribute~~ pay the actuarial cost of the member's military service, ~~credit~~ based on the system's most recent actuarial valuation ~~of the system~~.

(3) A member is not eligible to purchase military service under this section if the member:

(a) has retired from active duty in the armed forces of the United States with military retirement benefits based on that military service;

(b) is eligible, pursuant to 19-2-707, to receive credit in the system for that service; or

(c) is eligible to receive credit for that service in any other retirement system or plan."

Section 62. Section 19-6-802, MCA, is amended to read:

"**19-6-802. ~~Qualification~~ Purchase of other Montana public service.** (1) (a) A member may, at any time before retirement, ~~make~~ file a written ~~election~~ application with the board to ~~qualify~~ purchase all or any portion of the member's service in the public employees', sheriffs', game wardens' and peace officers', firefighters' unified, or municipal police officers' retirement system ~~for which~~ to the extent that the member either has received or is eligible to receive a refund of the member's membership contributions. To ~~qualify~~ purchase this service, the member shall ~~contribute to the pension trust fund~~ pay the actuarial cost of ~~granting~~ the service ~~credit~~ in the highway patrol officers' retirement system, as determined by the board, based on the system's most recent actuarial valuation minus the employer contribution provided in

subsection (1)(b).

(b) Upon receiving the member's payment under subsection (1)(a), the board shall transfer from the member's former retirement system to the highway patrol officers' retirement system an amount equal to the employer contributions made during the member's service but no more than an amount equal to the normal contribution rate minus the employee contribution rate in the highway patrol officers' retirement system, according to the most recent actuarial valuation.

(2) (a) A member may, at any time before retirement, ~~make~~ file a written ~~election~~ application with the board to ~~qualify~~ purchase all or a portion of ~~any~~ full-time public service employment performed for the state or a political subdivision of the state. The member shall provide compensation and employment documentation certified by the member's public employer. The board shall grant service credit subject to the board's rules ~~adopted by the board, upon contribution by~~ To purchase service under this section, the employee ~~of~~ shall pay the actuarial cost of ~~granting this~~ the service in the highway patrol officers' retirement system, as determined by the board, based on the system's most recent actuarial valuation ~~of the system~~.

(b) The board is the sole authority under this subsection (2) in determining what constitutes full-time public service."

Section 63. Section 19-6-803, MCA, is amended to read:

"**19-6-803. ~~Election~~ Application to ~~qualify~~ purchase law enforcement service performed in another state.** (1) ~~Except as provided in subsections (3) through (5)~~ Subject to [section 65], a member with at least 5 years ~~or more~~ of ~~membership~~ service ~~in the retirement system~~ credit may ~~qualify~~, at any time before retirement, file a written application with the board to purchase 1 year of out-of-state law enforcement employment for each year of service credit ~~under the retirement system, up to a maximum of 5 years, provided that~~, unless the member is ~~not~~ eligible to receive a retirement benefit in another system or plan for that ~~out-of-state law enforcement employment~~ same service.

(2) To ~~qualify~~ purchase this service, a member shall~~:~~

~~(a) at any time before the member's retirement, make a written election with the board to qualify the service; and~~

~~(b) contribute to the pension trust fund~~ pay the actuarial cost of ~~granting~~ the service in the retirement system, as determined by the board, based on:

~~(i)~~(a) the member's compensation for the 12 months immediately preceding the date of the

member's election to cover the service under the retirement system; and

~~(ii)~~(b) the actuarial rate in effect at the time of purchase of service.

(3) Service ~~qualified~~ purchased under this section may not be used to qualify a member to purchase military service under 19-6-801.

(4) Service ~~qualified~~ purchased under this section may not be used in calculating a member's retirement benefit unless the last 5 years of service credit were earned under the retirement system. If, upon retirement, a member's ~~qualified~~ purchased service may not be used in calculating the member's retirement benefit, the member ~~may choose to~~ must receive a refund of the ~~contributions made~~ amount paid by the member to ~~qualify~~ purchase the service, plus regular interest on that amount.

~~(5) The combined total service qualified under this section and military service qualified under 19-6-801 may not exceed 5 years.~~"

Section 64. Section 19-6-804, MCA, is amended to read:

"**19-6-804. ~~Election~~ Application to purchase additional service.** (1) ~~At any time before retirement, a member may make a written election with the board to purchase additional service credit for the purpose of calculating the member's retirement benefit. Except as provided in subsection (3), the~~ Subject to [section 65], a member with at least 5 years of membership service may, at any time before retirement, file a written application with the board to purchase 1 year of additional service credit for ~~every~~ each 5 years of membership service that the member has ~~qualified under~~ in the retirement system.

(2) ~~For each year of service credit purchased under this section~~ To purchase service under this section, a member shall ~~contribute to the pension trust fund an amount equal to~~ pay the actuarial cost of ~~granting~~ the service, based on the system's most recent actuarial valuation ~~of the system~~ as determined by the board.

(3) ~~A member may elect to qualify no more than a combined total of 5 years of service under 19-2-707, 19-6-801, 19-6-803, and this section.~~

~~(4)~~ Service purchased under this section is not membership service and may not be used to qualify a member for retirement or in the calculation of an actuarial reduction in benefits for a member who is not eligible for normal service retirement."

NEW SECTION. **Section 65. Service purchase limitation.** A member may not purchase more than a combined total of 5 years of service under 19-6-801, 19-6-803, and 19-6-804.

Section 66. Section 19-6-810, MCA, is amended to read:

"**19-6-810. Absence ~~due to~~ because of illness or injury.** (1) Time, not to exceed 5 years, during which a member is absent from service because of injury or illness is considered membership service if, within 1 year after the end of the absence, the injury or illness is determined by the board to have arisen out of and in the course of the member's employment. However, the member may not ~~earn~~ purchase service ~~credits~~ credit for this period unless the member complies with subsections (2) through (4), in which case the absence is considered as time spent in service for both service ~~credits~~ credit and membership service.

(2) After returning to service and while still in service, a member desiring service credit for the period of time referred to in subsection (1) shall file with the board a written application to pay the contributions under subsection (3).

(3) (a) A member eligible to ~~earn~~ purchase service ~~credits~~ credit pursuant to subsection (1) shall contribute to the retirement system an amount equal to the contributions that would have been made by the member to the system during the member's period of absence on the basis of the member's compensation immediately prior to the commencement of the member's absence plus regular interest accruing from 1 year from the date after the member returns to service to the date the member contributes for the period of absence.

(b) If a member elects to contribute under subsection (3)(a), the employer shall contribute employer contributions for the period of absence based on the salary as calculated in subsection (3)(a) and shall pay interest on the employer's contribution calculated in the same manner as interest on the employee's contribution under subsection (3)(a). An employer electing to make an interest payment shall do so for all employees similarly situated. If the employer elects not to pay the interest costs, this amount must be paid by the employee.

(4) A member loses the right to contribute for an absence under this section if all of the member's accumulated contributions have been refunded pursuant to 19-2-602. The member loses the right to contribute for the period of time during which retirement benefits have been received if the member retires during the absence."

Section 67. Section 19-6-901, MCA, is amended to read:

"**19-6-901. Survivorship benefits -- employment-related death.** (1) If the board finds that a member died as a direct and proximate result of injury received in the course of the member's service, a survivorship

benefit must be paid to the member's surviving spouse or dependent child in the same manner as provided for in 19-6-505(2) through (4).

(2) The retirement benefit must equal 50% of the ~~final~~ highest average ~~salary~~ compensation of the member."

Section 68. Section 19-6-902, MCA, is amended to read:

"**19-6-902. Survivorship benefits -- death from other causes.** If ~~a~~ an active or inactive member dies before reaching retirement age, the member's surviving spouse or dependent child must be paid a survivorship benefit that is the actuarial equivalent of the early retirement benefit provided in 19-6-503, in the same manner as provided for in 19-6-505(2) through (4)."

Section 69. Section 19-6-903, MCA, is amended to read:

"**19-6-903. Death payments in absence of survivors.** If ~~upon the member's death before retirement there is no surviving spouse or dependent child and if the member had designated a beneficiary as provided in 19-2-801~~, after a member's death, a benefit is not paid pursuant to 19-6-505, 19-6-601, 19-6-901, or 19-6-902, then the member's designated beneficiary must be paid an amount equal to the member's accumulated contributions minus the total of any benefits already paid from the member's account. ~~If there is no designated beneficiary, death payments must be paid to the member's estate.~~"

Section 70. Section 19-7-101, MCA, is amended to read:

"**19-7-101. Definitions.** Unless the context requires otherwise, the following definitions apply in this chapter:

(1) "Compensation" means remuneration paid for services to a member out of funds controlled by an employer before any pretax deductions allowed by the Internal Revenue Code are made and exclusive of maintenance, allowances, and expenses.

(2) ~~"Final~~ "Highest average ~~salary~~ compensation" means the highest average monthly compensation received by a member for any 3 years of continuous service from which contributions were deducted or, in the event that a member has not served 3 years, the total compensation earned divided by the number of months served. Lump-sum payments for sick leave and annual leave paid to an employee upon termination of employment may be used in the calculation of a retirement benefit only to the extent that they are used to replace, on a month-for-month basis, the normal compensation for a month or months

included in the calculation of the ~~final~~ highest average ~~salary~~ compensation. A lump-sum payment may not be added to a single month's compensation.

(3) "Investigator" means a person who is employed as a criminal investigator or as a gambling investigator for the department of justice.

(4) "Sheriff" means any elected or appointed county sheriff or undersheriff or any appointed, lawfully trained, appropriately salaried, and regularly acting deputy sheriff with the requisite professional certification and licensing. ~~The board shall adopt rules incorporating both the peace officers standards and training council's current law enforcement training requirements and the legislatively authorized salary requirements as effective for deputy sheriffs who are eligible for membership in this retirement system.~~"

Section 71. Section 19-7-301, MCA, is amended to read:

"**19-7-301. Membership -- inactive vested members -- inactive nonvested members.** (1) ~~Each~~ (a) Except as provided in subsection (1)(b), each sheriff ~~is required to~~ shall become a member of the sheriffs' retirement system ~~unless the~~.

(b) A sheriff who was a member of the public employees' retirement system on July 1, 1974, ~~in which case the sheriff~~ may ~~at the sheriff's option~~ remain a public employees' retirement system member or elect to become a member of the sheriffs' retirement system by filing a written election with the board at any time before retirement.

(2) ~~An~~ (a) Except as provided in subsection (2)(b), an investigator ~~is required to~~ must become a member of the sheriffs' retirement system.

(b) ~~unless the~~ An investigator who was a member of the public employees' retirement system on July 1, 1993, ~~in which case the investigator has the option of becoming~~ may remain in the public employees' retirement system or elect to become a member of the sheriffs' retirement system by filing a written election with the board at any time before retirement.

(3) A member of the public employees' retirement system who begins employment in a position covered by the sheriffs' retirement system may remain in the public employees' retirement system or may elect to become a member of the sheriffs' retirement system by filing a written election with the board no later than 30 days after beginning the employment.

(4) ~~All sheriffs and investigators~~ A sheriff or investigator who elects to become ~~members~~ a member of the sheriffs' retirement system ~~shall remain~~ must be an active ~~members so~~ member as long as ~~they are~~ actively employed in an eligible capacity, except as provided in 19-7-1101(2).

~~(4)~~(5) A member with at least 5 years of membership service who terminates service and does not take a refund of the member's accumulated contributions is an inactive vested member and retains the right to purchase service and to receive a retirement benefit under the provisions of this chapter.

~~(5)~~(6) A member with less than 5 years of membership service who terminates service and leaves the member's accumulated contributions in the pension trust fund is an inactive nonvested member and is not eligible for any benefits from the retirement system. An inactive nonvested member is eligible only for a refund of the member's accumulated contributions."

Section 72. Section 19-7-403, MCA, is amended to read:

"**19-7-403. Member's contributions deducted.** (1) Each member shall contribute into the pension trust fund 9.245% of the member's monthly compensation, which must be deposited to the member's credit in the pension trust fund.

(2) Each employer, pursuant to section 414(h)(2) of the federal Internal Revenue Code of 1954, as amended and applicable on July 1, 1985, shall pick up and pay the contributions that would be payable by the member under subsection (1) for service rendered after June 30, 1985.

(3) The member's contributions picked up by the employer must be designated for all purposes of the retirement system as the member's contributions, except for the determination of a tax upon a distribution from the retirement system. These contributions must become part of the member's accumulated contributions but must be accounted for separately from those previously accumulated.

(4) The member's contributions picked up by the employer must be payable from the same source as is used to pay compensation to the member and must be included in the member's wages, as defined in 19-1-102, and salary as used to define the member's ~~final~~ highest average ~~salary~~ compensation in 19-7-101. The employer shall deduct from the member's compensation an amount equal to the amount of the member's contributions picked up by the employer and remit the total of the contributions to the board."

Section 73. Section 19-7-501, MCA, is amended to read:

"**19-7-501. Eligibility for service retirement.** A member who has completed at least 20 years of membership service has attained normal retirement age and may retire on a service retirement benefit."

Section 74. Section 19-7-503, MCA, is amended to read:

"**19-7-503. Service retirement benefit.** (1) The amount of any service retirement benefit granted to a member is 2.5% of the member's ~~final~~ highest average ~~salary~~ compensation for each year of service credit.

(2) If a retired member dies without designating a contingent annuitant under 19-7-1001, the member's designated beneficiary must be paid the amount, if any, of the member's accumulated contributions calculated as of the day of the member's retirement minus the total of any retirement benefits already paid from the member's account."

Section 75. Section 19-7-601, MCA, is amended to read:

"**19-7-601. Disability retirement benefit.** In the case of the disability of a member, regardless of the member's length of service, a disability retirement benefit must be awarded to the member based on the actuarial equivalent of the member's service retirement benefit under 19-7-503 standing to the member's credit at the time of the member's disability retirement. If the disability is a direct result of the member's service as a member in the line of duty, then the member must be awarded a benefit of one-half of the member's ~~final~~ highest average ~~salary~~ compensation."

Section 76. Section 19-7-801, MCA, is amended to read:

"**19-7-801. Membership in municipal police officers' retirement system prior to or following city-county consolidation -- payment of benefits by two systems.** (1) A law enforcement officer who has not changed employment but who has, because of a city-county consolidation, been transferred either from a city police force to a county sheriff's department or from a county sheriff's department to a city police force as a law enforcement officer is eligible for a service retirement benefit if the officer's combined service in the sheriffs' retirement system and the municipal police officers' retirement system satisfies the minimum membership service requirement of the system to which the officer last made contributions. A member who has elected to continue membership in the public employees' retirement system under 19-7-301 may continue the election. However, credit for service in the public employees' retirement system that has not been transferred prior to January 1, 1979, may not be transferred.

(2) A member of the municipal police officers' retirement system who begins employment in a position covered by the sheriffs' retirement system following a city-county consolidation may remain in the municipal police officers' retirement system or elect to become a member of the sheriffs' retirement system by filing a written election with the board no later than 30 days after beginning the employment.

(3) Eligibility for and calculation of disability retirement, death benefits, and refund of contributions are governed by the provisions of the retirement system to which the officer last made contributions.

~~(3)~~(4) The service retirement benefit of a member described in subsection (1) must be calculated separately for each system based on the service credited under each system. The calculation for the sheriffs' retirement system portion of the benefit must include the appropriate reduction in the retirement benefit for an optional retirement benefit elected under 19-7-1001. The final salary or ~~final~~ highest average ~~salary~~ compensation for each calculation must be based on the highest compensation earned while a member of either system. Each system shall pay its proportionate share, based on the number of years of service credited, of the combined benefit.

~~(4)~~(5) Upon the death of a retired member receiving a service retirement benefit under this section, the survivor or contingent annuitant and the continuing benefit must be determined separately for each system as follows:

(a) For the municipal police officers' retirement system portion of the benefit, the surviving spouse must receive a benefit equal to the municipal police officers' retirement system portion of the service retirement benefit as calculated at the time of the member's retirement. If the retired member leaves no surviving spouse or upon the death of the surviving spouse, the retired member's surviving dependent child, or children collectively if there are more than one, ~~shall~~ must receive the same monthly benefits that a surviving spouse would receive for as long as the child or one of the children remains dependent, as defined in 19-9-104. The benefits must be made to the child's appointed guardian for the child's use. If there is more than one dependent child, upon each child no longer qualifying as dependent under 19-9-104, the pro rata benefits to that child must cease and be paid to the remaining children until all the children are no longer dependent.

(b) For the sheriffs' retirement system portion of the benefit:

(i) the contingent annuitant must receive a continuing benefit as determined under 19-7-1001, if the retired member elected an optional retirement benefit; or

(ii) if the retired member did not elect an optional retirement benefit, any payment owed the retired member, including the excess, if any, of the retired member's accumulated contributions standing to the retired member's credit at the time of retirement less payments made to the retired member must be paid to the retired member's designated beneficiary."

Section 77. Section 19-7-802, MCA, is amended to read:

"19-7-802. ~~Qualification~~ Purchase of other Montana public service. (1) (a) A member may, at any time before retirement, ~~make~~ file a written ~~election~~ application with the board to ~~qualify~~ purchase all or any portion of the member's service in the public employees', highway patrol officers', firefighters' unified, game wardens' and peace officers', or municipal police officers' retirement system ~~for which~~ to the extent that the member either has received or is eligible to receive a refund of the member's membership contributions. To ~~qualify~~ purchase this service, the member shall ~~contribute to the pension trust fund~~ pay the actuarial cost of ~~granting~~ the service in the sheriffs' retirement system, as determined by the board, based on the system's most recent actuarial valuation minus the employer contribution provided in subsection (1)(b).

(b) Upon receiving the member's payment under subsection (1)(a), the board shall transfer from the member's former retirement system to the sheriffs' retirement system an amount equal to the employer contributions made during the member's service but no more than an amount equal to the normal contribution rate minus the employee contribution rate in the sheriffs' retirement system, according to the most recent actuarial valuation, based on the compensation earned by the employee as a member of the former system.

(2) (a) A member may, at any time before retirement, ~~make~~ file a written ~~election~~ application with the board to ~~qualify any~~ purchase all or a portion of full-time public service employment performed for the state or a political subdivision of the state. The member shall provide compensation and employment documentation certified by the member's public employer. ~~The board shall grant service credit upon contribution by~~ To purchase service under this section, the employee ~~of~~ shall pay the actuarial cost of ~~granting this~~ the service in the sheriffs' retirement system, as determined by the board, based on the system's most recent actuarial valuation ~~of the system~~.

(b) The board is the sole authority under this subsection (2) in determining what constitutes full-time public service."

Section 78. Section 19-7-803, MCA, is amended to read:

"19-7-803. ~~Election~~ Application to ~~qualify~~ purchase ~~previous~~ military service. (1) ~~A~~ Except as otherwise provided in this section and subject to [section 80], a member with at least 15 years ~~or more~~ of service credit may, at any time prior to retirement, ~~make~~ file a written ~~election~~ application with the board to ~~qualify all or any portion~~ purchase up to 5 years of the member's active service in the armed forces of the United States for the purpose of calculating retirement benefits~~, up to a maximum of 5 years, except~~

~~as provided in subsection (3), if the member is not otherwise eligible to receive credit~~.

(2) To ~~qualify~~ purchase this military service, the member shall ~~contribute to the account~~ pay the actuarial cost of ~~granting~~ the member's military service, ~~to be determined by the board~~ based on the the system's most recent actuarial valuation ~~of the system~~. ~~The member may not qualify more of the member's military service than the member has service credits in the sheriffs' retirement system in excess of 15 years. Military service purchased under this section is not membership service and may not be used in determining eligibility for a service retirement benefit.~~

~~(2)~~(3) ~~If a~~ A member is not eligible to purchase military service under this section if the member:

(a) has retired from active duty in the armed forces of the United States with military retirement benefits~~, the member may not qualify the member's military service under subsection (1)~~ based on that military service;

(b) is eligible, pursuant to 19-2-707, to receive credit in the system for that service; or

(c) is eligible to receive credit for that service in any other retirement system or plan.

~~(3) The combined total purchase of additional years of service under the provisions of 19-7-804 and this section may not exceed 5 years.~~

(4) Military service purchased under this section is not membership service and may not be used in determining the member's eligibility for a service retirement benefit."

Section 79. Section 19-7-804, MCA, is amended to read:

"19-7-804. ~~Election~~ Application to purchase additional service. (1) ~~Except as provided in subsection (5)~~ Subject to [section 80], ~~at any time before retirement,~~ a member with at least 5 years of membership service may ~~make~~, at any time before retirement, file a written ~~election~~ application with the board to purchase 1 additional year of service credit for ~~every~~ each 5 years of membership service.

(2) ~~Service purchased under this section must be credited for the purpose of meeting retirement eligibility and for calculating retirement benefits.~~

~~(3)~~ To ~~qualify~~ purchase ~~this~~ service under this section, a member shall~~:~~

~~(a) make a written election with the board to qualify the service; and~~

~~(b) contribute to the pension trust fund~~ pay the actuarial cost of ~~granting~~ the service in the sheriffs' retirement system, as determined by the board, based on the system's most recent actuarial valuation ~~of the system~~.

~~(4)~~(3) Service ~~qualified~~ purchased under this section may not be used to qualify a member for the

purchase of military service under 19-7-803.

(4) Service purchased under this section must be credited for the purpose of meeting retirement eligibility and for calculating retirement benefits.

~~(5) The combined total of additional years of service purchased under the provisions of 19-7-803 and this section may not exceed 5 years.~~"

NEW SECTION. **Section 80. Service purchase limitation.** A member may not purchase a combined total of more than 5 years of service under 19-7-803 and 19-7-804.

Section 81. Section 19-7-810, MCA, is amended to read:

"**19-7-810. Absence ~~due to~~ because of illness or injury.** (1) Time, not to exceed 5 years, during which a member is absent from service because of injury or illness is considered membership service if, within 1 year after the end of the absence, the injury or illness is determined by the board to have arisen out of and in the course of the member's employment. However, the member may not ~~earn~~ purchase service ~~credits~~ credit for this period unless the member complies with subsections (2) through (4), in which case the absence is considered as time spent in service for both service ~~credits~~ credit and membership service.

(2) After returning to service and while still in service, a member desiring service credit for the period of time referred to in subsection (1) shall file with the board a written application to pay the contributions under subsection (3).

(3) (a) A member eligible to ~~earn~~ purchase service ~~credits~~ credit pursuant to subsection (1) shall contribute to the retirement system an amount equal to the contributions that would have been made by the member to the system during the member's period of absence on the basis of the member's compensation immediately prior to the commencement of the member's absence plus regular interest accruing from 1 year from the date after the member returns to service to the date the member contributes for the period of absence.

(b) If a member elects to contribute under subsection (3)(a), the employer shall contribute employer contributions for the period of absence based on the salary as calculated in subsection (3)(a) and shall pay interest on the employer's contribution calculated in the same manner as interest on the employee's contribution under subsection (3)(a). An employer electing to make an interest payment shall do so for all employees similarly situated. If the employer elects not to pay the interest costs, this amount must be paid

by the employee.

(4) A member loses the right to contribute for an absence under this section if all of the member's accumulated contributions have been refunded pursuant to 19-2-602. The member loses the right to contribute for the period of time during which retirement benefits have been received if the member retires during the absence."

Section 82. Section 19-7-901, MCA, is amended to read:

"**19-7-901. Payments in case of death before retirement.** If a member dies before retirement, the member's designated beneficiary may elect one of the following options for which the member qualified and for which the designated beneficiary qualifies:

(1) a lump-sum payment of the accumulated contributions standing to the member's credit at the member's death;

(2) a survivorship benefit equal to 2.5% of the member's ~~final~~ highest average ~~salary~~ compensation for each year of service credit actuarially reduced from age 65 or the date on which the member would have completed 20 years of membership service, whichever provides a larger retirement benefit; or

(3) a survivorship benefit that is no less than one-half of the member's ~~final~~ highest average ~~salary~~ compensation if the board finds that the member died as a direct and proximate result of injuries received in the course of employment."

Section 83. Section 19-7-1001, MCA, is amended to read:

"**19-7-1001. Optional forms of benefits -- designation of contingent annuitant.** (1) The retirement benefit of a member or the survivorship benefit of a designated beneficiary who so elects must be converted, in lieu of all other benefits under this chapter, into an optional retirement benefit that is the actuarial equivalent of the original benefit. The optional retirement benefit is initially payable during the member's or designated beneficiary's lifetime with a subsequent benefit to ~~the~~ a contingent annuitant ~~that the member or designated beneficiary nominated by written application, executed and filed with the board with the application for benefits~~, as follows:

(a) ~~Option~~ option 2--a continuation of the reduced amount after the death of the initial payee and payable during the lifetime of the named contingent annuitant;

(b) ~~Option~~ option 3--a continuation of one-half of the reduced amount after the death of the initial payee and payable during the lifetime of the named contingent annuitant;

(c) ~~Option~~ option 4--upon the initial payee's death, other actuarially equivalent amounts payable to a contingent annuitant as may be approved by the board.

(2) ~~Election of~~ The member or the designated beneficiary who elects an optional retirement benefit ~~must be by~~ shall file a written application ~~filed~~ with the board prior to the first payment of the benefit. A contingent annuitant must be identified on the application.

(3) If a benefit recipient or the recipient's contingent annuitant dies before the first payment has been made under option 2 or 3, the election of the option is automatically canceled.

(4) If the member dies after retirement and within 30 days from the date that the member's ~~election~~ written application electing or ~~changed~~ changing an election of an optional retirement benefit is received by the board, the election is void ~~and the death is considered as that of a member before retirement~~.

(5) (a) A retired member receiving an optional retirement benefit pursuant to subsection (1)(a) or (1)(b) that is initially effective on or after October 1, 1999, may file a written application with the board to have the optional retirement benefit revert to the regular retirement benefit available at the time of the member's retirement if:

(i) the contingent annuitant has died, in which case the optional benefit must revert effective on the first day of the month following the contingent annuitant's death; or

(ii) the member's marriage to the contingent annuitant is dissolved and the beneficiary was not granted the right to receive the optional retirement benefit as part of the dissolution settlement or a family law order, in which case the benefit must revert effective on the first day of the month following receipt of the written application and verification that the dissolution settlement or family law order does not grant the optional benefit to the contingent annuitant.

(b) A regular retirement benefit provided pursuant to this subsection (5) must be increased by the value of any postretirement adjustments received by the member since the effective date of the member's retirement.

(6) A written application pursuant to subsection (5) must be filed with the board within 18 months of the death of or dissolution of marriage to the contingent annuitant.

(7) (a) Upon filing a written application ~~to~~ with the board, a retired member who is receiving an optional retirement benefit may designate a different contingent annuitant, select a different option, or convert the member's optional retirement benefit to a regular retirement benefit if:

(i) the original contingent annuitant has died; or

(ii) the member has been divorced from the original contingent annuitant and the original contingent annuitant has not been granted the right to receive the optional retirement benefit as part of the divorce settlement.

(b) Upon receipt of the written application, the board shall actuarially adjust the member's monthly retirement benefit to reflect the change."

Section 84. Section 19-7-1101, MCA, is amended to read:

"**19-7-1101. Reemployment of ~~a~~ retired member.** (1) A retired member who returns to service for ~~at least~~ 60 or more working days in a calendar year ~~is~~ shall become an active member of the system. Upon reinstatement as an active member, benefit payments must cease until subsequent retirement.

(2) A retired member who returns to service for less than 60 working days in a calendar year ~~is excluded from membership~~ may not become an active member. The retirement benefit of a retired member employed in service must be reduced by $1 for each $3 earned in excess of $5,000 in a calendar year."

Section 85. Section 19-8-101, MCA, is amended to read:

"**19-8-101. Definitions.** Unless the context requires otherwise, the following definitions apply in this chapter:

(1) "Compensation" means remuneration paid for services to a member out of funds controlled by an employer before any pretax deductions allowed by the Internal Revenue Code are made and exclusive of maintenance, allowances, and expenses.

(2) ~~"Final~~ "Highest average ~~salary~~ compensation" means the highest average monthly compensation received by a member for any 3 years of continuous service upon which contributions were made or, in the event a member has not served 3 years, the total compensation earned divided by the number of months served. Lump-sum payments for severance pay, sick leave, and annual leave paid to an employee upon termination of employment may be used in the calculation of a retirement benefit only to the extent that they are used to replace, on a month-for-month basis, the normal compensation for a month or months included in the calculation of the ~~final~~ highest average ~~salary~~ compensation. A lump-sum payment may not be added to a single month's compensation.

(3) "Game warden" means a state fish and game warden hired by the department of fish, wildlife, and parks and includes all warden supervisory personnel whose salaries or compensation is paid out of the department of fish, wildlife, and parks money.

(4) "Motor carrier officer" means an employee of the department of transportation appointed as a peace officer pursuant to 61-12-201.

(5) "Peace officer" or "state peace officer" means a person who by virtue of the person's employment with the state is vested by law with a duty to maintain public order or make arrests for offenses while acting within the scope of the person's authority or who is charged with specific law enforcement responsibilities on behalf of the state."

Section 86. Section 19-8-302, MCA, is amended to read:

"**19-8-302. Public employees' retirement system -- transfer of membership.** (1) Except as provided in subsections (2) and (4), an eligible peace officer shall become a member of the game wardens' and peace officers' retirement system on the first day of covered service.

(2) A member of the public employees' retirement system who first becomes eligible for membership in the game wardens' and peace officers' retirement system on July 1, 1997, may elect to become a member of the retirement system or may continue membership in the public employees' retirement system by ~~submitting~~ filing a written election ~~of intent to~~ with the board no later than December 31, 1997.

(3) A person who is a member of the game wardens' and peace officers' retirement system assigned to law enforcement who transfers to a position involving duties other than law enforcement within the same state agency may retain membership in the retirement system by filing a written election ~~of intent~~ with the board no later than 30 days after transfer to the new position.

(4) A person who is a member of the public employees' retirement system who transfers to a position covered by the game wardens' and peace officers' retirement system may elect to become a member of the retirement system or may continue membership in the public employees' retirement system by filing a written election ~~of intent~~ with the board no later than 30 days after transfer to the new position."

Section 87. Section 19-8-308, MCA, is amended to read:

"**19-8-308. Transfer of ~~membership -- qualification of previous~~ service.** A person who elects to become a member of the game wardens' and peace officers' retirement system pursuant to 19-8-302 may transfer the member's ~~creditable~~ service in the public employees' retirement system into the game wardens' and peace officers' retirement system under the provisions of 19-8-902."

Section 88. Section 19-8-502, MCA, is amended to read:

"**19-8-502. Member's contribution.** (1) Each member is required to contribute into the pension trust fund 8.5% of the member's monthly compensation, which must be deposited to the member's credit in the pension trust fund.

(2) Each employer, pursuant to section 414(h)(2) of the federal Internal Revenue Code of 1954, as amended and applicable on July 1, 1985, shall pick up and pay the contributions that would be payable by the member under subsection (1) for service rendered after June 30, 1985.

(3) The member's contributions picked up by the employer must be designated for all purposes of the retirement system as the member's contributions, except for the determination of a tax upon a distribution from the retirement system. These contributions must become part of the member's accumulated contributions but must be accounted for separately from those previously accumulated.

(4) The member's contributions picked up by the employer must be payable from the same source as is used to pay compensation to the member and must be included in the member's wages, as defined in 19-1-102, and the member's compensation as used to define the member's ~~final~~ highest average ~~salary~~ compensation in 19-8-101. The employer shall deduct from the member's compensation an amount equal to the amount of the member's contributions picked up by the employer and remit the total of the contributions to the board."

Section 89. Section 19-8-601, MCA, is amended to read:

"**19-8-601. Time of retirement.** A member ~~in service~~ who has completed at least 20 years of membership service~~,~~ and reached the age of 50 years~~, and terminated service~~ has attained normal retirement age and may retire with a service retirement benefit ~~upon~~ by filing a written application ~~to~~ with the board."

Section 90. Section 19-8-603, MCA, is amended to read:

"**19-8-603. Service retirement benefit.** The service retirement benefit is equal to 2% of the member's ~~final~~ highest average ~~salary~~ compensation for each year of service credit."

Section 91. Section 19-8-701, MCA, is amended to read:

"**19-8-701. Disability retirement benefit.** (1) A member who is determined by the board to be disabled must be granted a disability retirement benefit in an amount calculated on the actuarial equivalent

of the service retirement benefit standing to the member's credit at the time of the member's disability retirement.

(2) If the disability is a direct result of any service to the state in the line of duty and the member has at least 5 years of membership service, the member who is disabled must be retired on a disability retirement benefit of not less than one-half of the member's ~~final~~ highest average ~~salary~~ compensation."

Section 92. Section 19-8-712, MCA, is amended to read:

"**19-8-712. Medical examination of disability retiree -- cancellation of benefit.** (1) The board, in its discretion, may require the recipient of a disability retirement benefit to undergo a medical examination. The examination must be made by a physician or surgeon at the recipient's place of residence or at another place mutually agreed on, at the board's expense. Upon the basis of the examination, the board shall determine, by reason of physical or mental capacity, whether the recipient can perform the essential elements of the position held by the recipient when the recipient retired. If the board determines that the recipient is not incapacitated, the recipient's disability retirement benefit must be canceled when the recipient is offered a position under subsection (3) or when, if a position is available, the recipient cannot be reinstated under subsection (3) for reasons unrelated to the disability. If the recipient refuses to submit to a medical examination, the recipient's disability retirement benefit must be canceled when the recipient is notified of the determination of the board.

(2) If the board determines that a recipient of a disability retirement benefit should no longer be subject to medical review, the board may grant a service retirement status to the recipient without recalculating the recipient's monthly benefit. The board shall notify the recipient in writing as to the change in status. If the recipient disagrees with the board's determination, the recipient may ~~submit~~ file a written application ~~to~~ with the board ~~to request~~ requesting that the board ~~to~~ reconsider its action. The request for reconsideration must be ~~made in writing~~ filed within 60 days after receipt of the notice of the status change.

(3) (a) Except as provided in subsection (3)(b), a recipient whose disability retirement benefit is canceled because the board has determined that the recipient is no longer incapacitated must be reinstated to the position held by the recipient immediately before the recipient's retirement or to a position in a comparable pay and benefit category within the recipient's capacity, whichever is first open. The fact that the recipient was retired for disability may not prejudice any right to reinstatement to duty that the recipient may have or claim to have.

(b) This section does not affect any requirement that the former employee meet or be able to meet professional certification and licensing standards unrelated to the disability and necessary for reinstatement.

(4) The member's former employer may request a medical or psychological review as to the ability of the recipient to return to work as a peace officer. If the board's findings are upheld, the former employer shall pay the cost of the review."

Section 93. Section 19-8-801, MCA, is amended to read:

"**19-8-801. Optional forms of benefits -- designation of contingent annuitant.** (1) The retirement benefit of a member or the survivorship benefit of a designated beneficiary who so elects must ~~be converted,~~ in lieu of all other benefits under this chapter, be converted into an optional retirement benefit that is the actuarial equivalent of the original benefit. The optional retirement benefit is initially payable during the member's or designated beneficiary's lifetime with a subsequent benefit to ~~the~~ a contingent annuitant ~~that the member or designated beneficiary nominated by written designation, executed and filed with the board on the application for benefits,~~ as follows:

(a) ~~Option~~ option 2--a continuation of the reduced amount after the death of the initial payee and payable during the lifetime of the named contingent annuitant;

(b) ~~Option~~ option 3--a continuation of one-half of the reduced amount after the death of the initial payee and payable during the lifetime of the named contingent annuitant;

(c) ~~Option~~ option 4--upon the initial payee's death, other actuarially equivalent amounts payable to a contingent annuitant as may be approved by the board.

(2) ~~Election of~~ The member or the designated beneficiary who elects an optional retirement benefit ~~must be by~~ shall file a written application ~~filed~~ with the board prior to the first payment of the benefit. A contingent annuitant must be identified on the application.

(3) If a benefit recipient or the recipient's contingent annuitant dies before the first payment has been made under option 2 or 3, the election of the option is automatically canceled.

(4) If the member dies after retirement and within 30 days from the date that the member's ~~election~~ written application electing or ~~changed~~ changing an election of an optional retirement benefit is received by the board, the election is void ~~and the death is considered as that of a member before retirement~~.

(5) (a) A retired member receiving an optional retirement benefit pursuant to subsection (1)(a) or (1)(b) that is initially effective on or after October 1, 1999, may file a written application with the board

to have the optional retirement benefit revert to the regular retirement benefit available at the time of the member's retirement if:

(i) the contingent annuitant has died, in which case the optional benefit must revert effective on the first day of the month following the contingent annuitant's death; or

(ii) the member's marriage to the contingent annuitant is dissolved and the beneficiary was not granted the right to receive the optional retirement benefit as part of the dissolution settlement or a family law order, in which case the benefit must revert effective on the first day of the month following receipt of the written application and verification that the dissolution settlement or family law order does not grant the optional benefit to the contingent annuitant.

(b) A regular retirement benefit provided pursuant to this subsection (5) must be increased by the value of any postretirement adjustments received by the member since the effective date of the member's retirement.

(6) A written application pursuant to subsection (5) must be filed with the board within 18 months of the death of or dissolution of marriage to the contingent annuitant.

(7) (a) Upon filing a written application ~~to~~ with the board, a retired member who is receiving an optional retirement benefit may designate a different contingent annuitant, select a different option, or convert the member's optional retirement benefit to a regular retirement benefit if:

(i) the original contingent annuitant has died; or

(ii) the member has been divorced from the original contingent annuitant and the original contingent annuitant has not been granted the right to receive the optional retirement benefit as part of the divorce settlement.

(b) Upon receipt of the written application, the board shall actuarially adjust the member's monthly retirement benefit to reflect the change."

Section 94. Section 19-8-901, MCA, is amended to read:

"**19-8-901. ~~Election~~ Application to ~~qualify~~ purchase military service.** (1) ~~A~~ (a) Except as otherwise provided in this section and subject to [section 98], a member with at least 15 years ~~or more~~ of service credit ~~qualified under this chapter~~ may, at any time prior to retirement, ~~make~~ file a written application with the board to ~~qualify all or any portion~~ purchase up to 5 years of the member's active service in the armed forces of the United States for the purpose of calculating retirement benefits~~, up to a maximum of 5 years, if the member is not otherwise eligible to receive credit for this service~~.

~~(2)~~(b) To ~~qualify~~ purchase this military service, the member shall ~~contribute to the pension trust fund~~ pay the actuarial cost of ~~granting~~ the member's military service, based on the system's most recent actuarial valuation ~~of the system~~ as determined by the board~~. The member may not qualify more years of military service than the member has years of service credits in excess of 15 years~~.

(2) A member is not eligible to purchase military service under this section if the member:

(a) has retired from active duty in the armed forces of the United States with military retirement benefits based on that military service;

(b) is eligible, pursuant to 19-2-707, to receive credit in the system for that service; or

(c) is eligible to receive credit for that service in any other retirement system or plan."

Section 95. Section 19-8-902, MCA, is amended to read:

"**19-8-902. ~~Qualification~~ Purchase of other Montana public service.** (1) (a) A member may, at any time before retirement, ~~make~~ file a written ~~election~~ application with the board to ~~qualify~~ purchase all or any portion of the member's service credit in the public employees', highway patrol officers', firefighters' unified, sheriffs', or municipal police officers' retirement system ~~for which~~ to the extent that the member either has received or is eligible to receive a refund of the member's accumulated contributions. To ~~qualify~~ purchase this service, the member shall ~~contribute to the pension trust fund~~ pay the actuarial cost of ~~granting~~ the service in the game wardens' and peace officers' retirement system, as determined by the board, based on the system's most recent actuarial valuation ~~of the system~~ minus the employer contribution provided in subsection (1)(b).

(b) Upon receiving the member's payment under subsection (1)(a), the board shall transfer from the member's former retirement system to the game wardens' and peace officers' retirement system an amount equal to the employer contributions made during the member's service but no more than an amount equal to the normal contribution rate minus the employee contribution rate in the game wardens' and peace officers' retirement system, according to the most recent actuarial valuation, based on the salaries earned by the employee as a member of the former system.

(2) (a) A member may, at any time before retirement, ~~make~~ file a written ~~election~~ application with the board to ~~qualify any~~ purchase all or a portion of full-time public service employment performed for the state or a political subdivision of the state. The member shall provide salary and employment documentation certified by the member's public employer. The board shall grant service credit subject to the board's rules ~~adopted by the board~~. ~~upon contribution by~~ To purchase service under this section, the

employee ~~of~~ shall pay the actuarial cost of ~~granting this~~ the service in the game wardens' and peace officers' retirement system, as determined by the board, based on the system's most recent actuarial valuation ~~of the system~~.

(b) The board is the sole authority under this subsection (2) in determining what constitutes full-time public service."

Section 96. Section 19-8-903, MCA, is amended to read:

"**19-8-903. Employment in United States government.** (1) A member who is assigned to an agency of the United States government under Title IV, the Intergovernmental Personnel Act of 1970, may ~~qualify~~ purchase the federal employment in the retirement system under subsection (2) of this section~~, provided that~~ if:

(a) the member has accumulated at least 5 years of membership service; and

(b) the member returns to full-time service for at least 1 year after completing employment in the United States government.

(2) A member who is assigned to an agency of the United States government has the option to:

(a) continue the member's payments into the pension trust fund; or

(b) pay an amount equal to the normal employer and employee contributions plus interest within 2 years after the member's return to active state peace officer status.

(3) Compensation earned while on assignment to an agency of the United States government must be considered compensation for purposes of the retirement system and may be included in the determination of ~~final~~ highest average ~~salary~~ compensation, provided that the ~~final~~ highest average ~~salary cannot~~ compensation does not exceed 100% of the member's highest monthly compensation earned as a state peace officer."

Section 97. Section 19-8-904, MCA, is amended to read:

"**19-8-904. ~~Election~~ Application to purchase additional service.** (1) ~~At any time before retirement, a member may make a written election with the board to purchase additional service credit for the purpose of calculating the member's retirement benefit. Except as provided in subsection (3), the~~ Subject to [section 98], a member with at least 5 years of membership service, may, at any time before retirement, file a written application with the board to purchase 1 year of additional service credit for ~~every~~ each 5 years of membership service that the member has qualified ~~under~~ in the retirement system.

(2) ~~For each year of service credit purchased~~ To purchase service under this section, a member shall ~~contribute to the pension trust fund an amount equal to~~ pay the actuarial cost of ~~granting~~ the service, based on the system's most recent actuarial valuation ~~of the system~~ as determined by the board.

(3) ~~A member may elect to qualify no more than a combined total of 5 years of service under 19-2-707, 19-8-901, 19-8-903, and this section.~~

~~(4)~~ Service purchased under this section is not membership service and may not be used to qualify a member for retirement or in the calculation of an actuarial reduction in benefits for a member who is not eligible for normal service retirement."

NEW SECTION. **Section 98. Service purchase limitation.** A member may not purchase more than a combined total of 5 years of service under 19-8-901 and 19-8-904.

Section 99. Section 19-8-1001, MCA, is amended to read:

"**19-8-1001. Benefits upon employment-related death.** If the board finds that a member died as a direct and proximate result of injury received in the course of the member's service, a monthly survivorship benefit must be paid to the member's designated beneficiary equal to 50% of the ~~final~~ highest average ~~salary~~ compensation of the member. If the deceased member has completed more than 25 years of service credit, the survivorship benefit must equal 2% of the member's highest average compensation for each year of service credit."

Section 100. Section 19-9-104, MCA, is amended to read:

"**19-9-104. Definitions.** Unless the context requires otherwise, the following definitions apply in this chapter:

(1) "Compensation" means the remuneration, excluding overtime, holiday payments, shift differential payments, compensation time payments, and payments in lieu of sick leave and annual leave, paid for services to a member out of funds controlled by an employer before any pretax deductions allowed by the Internal Revenue Code have been made.

(2) "Dependent child" means a child of a deceased member:

(a) who is unmarried and under 18 years of age; or

(b) who is unmarried, under 24 years of age, and attending an accredited postsecondary educational institution as a full-time student in anticipation of receiving a certificate or degree.

(3) "Employer" means any city that participated in a prior plan or that elects to join this retirement system under 19-9-207.

(4) "Final average compensation" means the monthly compensation of a member, averaged over the last 36 months of the member's service or, in the event a member has not been a member that long, over the period of membership.

(5) "Minimum retirement date" means the first day of the month coinciding with or, if none coincides, the date on which a member both becomes age 50 and completes 5 years of membership service.

(6) Any reference to "municipality", "city", or "town" includes those jurisdictions that, prior to the effective date of a county-municipal consolidation, were incorporated municipalities, subsequent districts created for urban law enforcement services, or the entire county included in the county-municipal consolidation.

(7) "Police officer" means an appointed, lawfully trained, appropriately salaried, and regularly acting officer with the requisite professional certification and licensing.

(8) "Prior plan" means the local police reserve or pension trust fund of a city that elects to join the retirement system under 19-9-207.

~~(8)~~(9) "Retirement date" means the date on which the first payment of the retirement, disability, or survivorship benefits of a member or a survivor is payable.

~~(9)~~(10) "Surviving spouse" means the spouse married to a member at the time of the member's death.

~~(10)~~(11) "Survivor" means a surviving spouse or dependent child of the member."

Section 101. Section 19-9-301, MCA, is amended to read:

"**19-9-301. Active membership -- inactive vested member -- inactive nonvested member.** (1) A police officer becomes an active member of the retirement system:

(a) on the date the police officer's service with an employer commences;

(b) on July 1, 1977, if the police officer is employed by an employer on that date; or

(c) in the case of an employer that elects to join the retirement system, as provided in 19-9-207, on the effective date of the election if the police officer is employed by the employer on that date. A person who is a member of the public employees' retirement system on the date of the employer's election may remain in the public employees' retirement system or may elect to become a member of the municipal

police officers' retirement system by filing a written election with the board no later than 30 days after the date of the employer's election.

(2) Upon becoming eligible for membership, the police officer shall complete the forms and furnish the proof required by the board.

(3) A member becomes an inactive member on the first day of an approved absence from service of a substantial duration.

(4) A member with at least 5 years of membership service who terminates service and does not take a refund of the member's accumulated contributions is an inactive vested member and retains the right to purchase service and to receive a retirement benefit under the provisions of this chapter.

(5) A member with less than 5 years of membership service who terminates service and leaves the member's accumulated contributions in the pension trust fund is an inactive nonvested member and is not eligible for any benefits from the retirement system. An inactive nonvested member is eligible only for a refund of the member's accumulated contributions."

Section 102. Section 19-9-403, MCA, is amended to read:

"**19-9-403. ~~Election~~ Application to ~~qualify~~ purchase ~~previous~~ military service.** (1) ~~A~~ Except as otherwise provided in this section and subject to [section 105], a member with at least 15 years ~~or more~~ of service credit may, at any time prior to retirement, ~~make~~ file a written ~~election~~ application with the board to ~~qualify~~ purchase up to ~~a maximum of~~ 5 years of the member's active duty service in the armed forces of the United States for the purpose of calculating retirement benefits ~~if the member is not otherwise eligible to receive credit~~.

(2) To ~~qualify~~ purchase this military service, the member shall ~~contribute to the pension trust fund~~ pay the actuarial cost of ~~granting~~ the member's military service ~~to be determined by the board,~~ based on the system's most recent actuarial valuation ~~of the system~~.

(3) The member may not ~~qualify~~ purchase more ~~of the member's~~ military service than the ~~member has~~ member's years of membership service ~~credit~~ in excess of 15 years.

~~(2) If a~~ (4) A member is not eligible to purchase military service under this section if the member:

(a) has retired from active duty in the armed forces of the United States with a ~~normal military service~~ military retirement benefit~~, the member may not qualify the member's military service under subsection (1)~~ based on that military service;

(b) is eligible, pursuant to 19-3-707, to receive credit in the system for that service; or

(c) is eligible to receive credit for that service in any other retirement system or plan."

Section 103. Section 19-9-405, MCA, is amended to read:

"**19-9-405. ~~Qualification~~ Purchase of other Montana public service.** (1) (a) A member may, at any time before retirement, ~~make~~ file a written ~~election~~ application with the board to ~~qualify~~ purchase all or any portion of the member's service credit in the public employees', highway patrol officers', firefighters' unified, sheriffs', or game wardens' and peace officers' retirement system ~~for which~~ to the extent that the member either has received or is eligible to receive a refund of the member's accumulated contributions.

(b) To ~~qualify~~ purchase this service, the member shall ~~contribute to the pension trust fund~~ pay the actuarial cost of ~~granting~~ the service in the municipal police officers' retirement system, as determined by the board, based on the system's most recent actuarial valuation minus the employer contribution provided in subsection ~~(1)(b)~~ (1)(c).

~~(b)~~(c) Upon receiving the member's payment under subsection ~~(1)(a)~~ (1)(b), the board shall transfer from the member's former retirement system to the municipal police officers' retirement system an amount equal to the employer contributions made during the member's service but no more than an amount equal to the regular contribution rate minus the employee contribution rate in the municipal police officers' retirement system, according to the most recent actuarial valuation, based on the salaries earned by the employee as a member of the former system.

(2) (a) A member may, at any time before retirement, ~~make~~ file a written ~~election~~ application with the board to ~~qualify~~ purchase all or a portion of ~~any~~ full-time public service employment performed for the state or a political subdivision of the state. The member shall provide salary and employment documentation certified by the member's public employer. The board shall grant service credit subject to the board's rules ~~adopted by the board. upon contribution by~~ To purchase service under this section, the employee ~~of~~ shall pay the actuarial cost of ~~granting this~~ the service in the municipal police officers' retirement system, as determined by the board, based on ~~the employee's compensation earned during this period of service and the regular contribution rate according to~~ the system's most recent actuarial valuation ~~of the system~~.

(b) The board is the sole authority under this subsection (2) in determining what constitutes full-time public service."

Section 104. Section 19-9-411, MCA, is amended to read:

"19-9-411. ~~Election~~ Application to purchase additional service. (1) ~~At any time before retirement, a member may make a written election with the board to purchase additional service credit for the purpose of calculating the member's retirement benefit. Except as provided in subsection (3), the~~ Subject to [section 105], a member with at least 5 years of membership service may, at any time before retirement, file a written application with the board to purchase 1 year of additional service credit for ~~every~~ each 5 years of membership service ~~that the member has qualified under the retirement system~~.

(2) ~~For each year of service credit purchased under this section~~ To purchase service under this section, a member shall ~~contribute to the pension trust fund an amount equal to~~ pay the actuarial cost of ~~granting~~ the service, based on the system's most recent actuarial valuation ~~of the system~~ as determined by the board.

(3) ~~A member may elect to qualify no more than a combined total of 5 years of service under 19-2-707, 19-9-403, and this section.~~

~~(4)~~ Service purchased under this section is not membership service and may not be used to qualify a member for retirement or in the calculation of an actuarial reduction in benefits for a member who is not eligible for normal service retirement."

NEW SECTION. **Section 105. Service purchase limitation.** A member may not purchase more than a combined total of 5 years of service under 19-9-403 and 19-9-411.

Section 106. Section 19-9-801, MCA, is amended to read:

"19-9-801. Eligibility for service retirement -- commencement of benefit. ~~(1) Members are~~ A member has attained normal retirement age and is eligible for a service retirement ~~as provided in this section.~~ benefit after terminating service if:

~~(2) A member is eligible to receive a service retirement benefit when~~ (1) the member has completed 20 years or more of membership service ~~and has terminated service.~~; or

~~(3) A~~ (2) the member ~~who terminates service after completing~~ has completed at least 5 years of membership service ~~but prior to completing 20 years of membership service is eligible to receive a service retirement benefit when the member has~~ and reached 50 years of age."

Section 107. Section 19-9-1101, MCA, is amended to read:

"19-9-1101. Preretirement death benefits. ~~(1)~~ Upon the death of ~~a~~ an active member ~~before~~

~~retirement~~, the member's surviving spouse or dependent child is eligible for benefits equal to one-half of the member's final average compensation, payable as provided in 19-9-804(2). If the deceased member has completed over 20 years of membership service, the survivorship benefit must equal 2.5% of the member's final average compensation for each year of membership service.

~~(2) Upon the death of an inactive nonvested member, the member's surviving spouse or dependent child is eligible for a refund of the member's accumulated contributions.~~"

Section 108. Section 19-9-1102, MCA, is amended to read:

"**19-9-1102. Payments in absence of spouse or child.** If, after a ~~retired~~ member dies ~~without leaving a surviving spouse or dependent child and if the member had designated a beneficiary in writing to the board as provided in 19-2-801, the~~, a benefit is not paid pursuant to 19-9-804, 19-9-903, or 19-9-1101, then the member's designated beneficiary must be paid the amount, if any, of the member's accumulated contributions minus the total of any ~~retirement~~ benefits already paid from the member's account. ~~If the member did not designate a beneficiary or the designated beneficiary predeceased the member, the amount must be paid to the member's estate.~~"

Section 109. Section 19-13-301, MCA, is amended to read:

"**19-13-301. Active membership -- inactive vested member -- inactive nonvested member.** (1) Except as provided in subsection (7), a full-paid firefighter becomes an active member of the retirement system:

(a) on the first day of the firefighter's service with an employer;

(b) on July 1, 1981, if the firefighter is employed by an employer on that date; or

(c) in the case of an employer who elects to join the retirement system, as provided in 19-13-211, on the effective date of the election if the firefighter is employed by the employer on that date.

(2) Upon becoming eligible for membership, the firefighter shall complete the forms and furnish any proof required by the board.

(3) A part-paid firefighter may elect to become a member of the retirement system by filing a membership application with the board within 6 months of becoming a part-paid firefighter or [the effective date of this section], whichever is later.

(4) An active member becomes an inactive member upon the occurrence of the earliest of the following:

(a) the date on which the member ceases service with an employer;

(b) the 31st day of an approved absence from active duty with an employer; or

(c) the date on which the member ceases to be employed because of a reduction of the number of firefighters in the fire department as provided in 7-33-4125.

(5) A member with at least 5 years of membership service who terminates service and does not take a refund of the member's accumulated contributions is an inactive vested member and retains the right to purchase service and to receive a retirement benefit under the provisions of this chapter.

(6) A member with less than 5 years of membership service who terminates service and leaves the member's accumulated contributions in the pension trust fund is an inactive nonvested member and is not eligible for any benefits from the retirement system. An inactive nonvested member is eligible only for a refund of the member's accumulated contributions.

(7) (a) A firefighter previously employed in a position covered under the public employees' retirement system and who is first hired into a position covered under the firefighters' unified retirement system after attaining 45 years of age may elect to remain in the public employees' retirement system.

(b) A firefighter making an election to remain in the public employees' retirement system shall make the election in a manner prescribed by the board within ~~1 month~~ 30 days of being hired into the position otherwise covered under the firefighters' unified retirement system."

Section 110. Section 19-13-403, MCA, is amended to read:

"**19-13-403. ~~Election~~ Application to ~~qualify~~ purchase ~~previous~~ military service.** (1) ~~A~~ (a) Except as otherwise provided in this section and subject to [section 113], a member with at least 15 years ~~or more~~ of service credit may, at any time prior to retirement, ~~make~~ file a written ~~election~~ application with the board to ~~qualify~~ purchase ~~all or any portion~~ up to 5 years of the member's active duty service in the armed forces of the United States for the purpose of calculating retirement benefits~~, up to a maximum of 5 years, if the member is not otherwise eligible to receive credit for this service under 19-2-707~~.

(b) To ~~qualify~~ purchase this military service, the member shall ~~contribute to the pension trust fund~~ pay the actuarial cost of ~~granting~~ the service ~~to be determined by the board~~, based on the system's most recent actuarial valuation ~~of the system~~.

(2) A member may not ~~qualify~~ purchase more ~~of the member's~~ military service than the ~~member has~~ member's years of membership service ~~credit~~ in excess of 15 years. ~~Military service purchased under this section may not be used in determining the member's eligibility for a service retirement.~~

~~(2)~~(3) ~~If a~~ A member is not eligible to purchase military service under this section if the member:

(a) has retired from active duty in the armed forces of the United States with military retirement benefits~~, the member may not qualify military service under subsection (1)~~ based on that military service;

(b) is eligible, pursuant to 19-2-707, to receive credit in the system for that service; or

(c) is eligible to receive credit for that service in any other retirement system or plan.

(4) Military service purchased under this section is not membership service and may not be used in determining the member's eligibility for a service retirement benefit."

Section 111. Section 19-13-404, MCA, is amended to read:

"**19-13-404. ~~Qualification~~ Purchase of other Montana public service.** (1) (a) A member may, at any time before retirement, ~~make~~ file a written ~~election~~ application with the board to ~~qualify~~ purchase all or any portion of the member's service credit in the public employees', highway patrol officers', sheriffs', municipal police officers', or game wardens' and peace officers' retirement system ~~for which~~ to the extent that the member either has received or is eligible to receive a refund of the member's accumulated contributions.

(b) To ~~qualify~~ purchase this service, the member shall ~~contribute to the pension trust fund~~ pay the actuarial cost of ~~granting~~ the service in the firefighters' unified retirement system, as determined by the board, based on the system's most recent actuarial valuation minus the employer contribution provided in subsection ~~(1)(b)~~ (1)(c).

~~(b)~~(c) Upon receiving the member's payment under subsection ~~(1)(a)~~ (1)(b), the board shall transfer from the member's former retirement system to the firefighters' unified retirement system an amount equal to the employer contributions made during the member's service~~,~~ but no more than an amount equal to the normal contribution rate minus the employee contribution rate in the firefighters' unified retirement system, according to the most recent actuarial valuation, based on the compensation earned by the employee as a member of the former system.

(2) (a) A member may, at any time before retirement, ~~make~~ file a written ~~election~~ application with the board to ~~qualify any~~ purchase full-time public service employment performed for the state or a political subdivision of the state. The member shall provide compensation and employment documentation certified by the member's public employer. The board shall grant service credit subject to the board's rules ~~adopted by the board upon contribution by~~. To purchase service under this section, the employee ~~of~~ shall pay the actuarial cost of ~~granting this~~ the service in the firefighters' unified retirement system, ~~as determined by~~

~~the board,~~ based on the system's most recent actuarial valuation ~~of the system~~.

(b) The board is the sole authority under this subsection (2) in determining what constitutes full-time public service."

Section 112. Section 19-13-405, MCA, is amended to read:

"**19-13-405. ~~Election~~ Application to purchase additional service.** (1) ~~At any time before retirement, a member may make a written election with the board to purchase additional service credit for the purpose of calculating the member's retirement benefit. Except as provided in subsection (3), the~~ Subject to [section 113], a member with at least 5 years of membership service may, at any time before retirement, file a written application with the board to purchase 1 year of additional service credit for ~~every~~ each 5 years of membership service ~~that the member has qualified under the retirement system~~.

(2) ~~For each year of service credit purchased under this section~~ To purchase service under this section, a member shall ~~contribute to the pension trust fund an amount equal to~~ pay the actuarial cost of ~~granting~~ the service, based on the system's most recent actuarial valuation ~~of the system~~ as determined by the board.

(3) ~~A member may elect to qualify no more than a combined total of 5 years of service under 19-2-707, 19-13-403, and this section.~~

~~(4)~~ Service purchased under this section is not membership service and may not be used to qualify a member for retirement or in the calculation of an actuarial reduction in benefits for a member who is not eligible for normal service retirement."

NEW SECTION. **Section 113. Service purchase limitation.** A member may not purchase more than a combined total of 5 years of service under 19-13-403 and 19-13-405.

Section 114. Section 19-13-604, MCA, is amended to read:

"**19-13-604. State contribution.** The state shall make its contributions from the general fund. ~~Payments must be made annually from the~~ The general fund ~~to the pension trust fund~~ contributions must be made annually after the end of each fiscal year but no later than November 1. The board shall notify the state auditor by September 1 of each fiscal year of the annual compensation, excluding overtime, holiday payments, shift differential payments, compensatory time payments, and payments in lieu of sick leave, paid to all active members during the preceding fiscal year. The state's contribution is 32.61% of

this total compensation. The contributions are statutorily appropriated, as provided in 17-7-502."

Section 115. Section 19-13-701, MCA, is amended to read:

"**19-13-701. Eligibility for service retirement.** (1) A member who has completed 20 years or more of membership service has attained normal retirement age and is eligible for service retirement.

(2) A vested member who terminates service before the minimum retirement date and keeps the member's accumulated contributions on deposit has attained normal retirement age and is eligible for service retirement commencing on the member's minimum retirement date."

Section 116. Section 19-13-902, MCA, is amended to read:

"**19-13-902. Survivorship benefit.** (1) ~~Upon the death before retirement of an active member the~~ A member's surviving spouse, if there is one, must receive a survivorship benefit ~~equal to one-half the final average compensation received by the member~~ amount as provided in this section. If ~~the~~ a member leaves ~~one or more dependent children, then, upon the member's death if the member leaves~~ no surviving spouse or upon the death of the surviving spouse, the member's surviving dependent children must collectively receive the same benefit that a surviving spouse would have received~~,~~ under this section. A child may receive a share of the benefit as long as the ~~children remain~~ child is a dependent ~~children~~ child, as defined in 19-13-104.

(2) ~~If the deceased~~ (a) The survivorship benefit paid upon the death of an active member who has completed less than 20 years of membership service is one-half the final average compensation received by the member.

(b) The survivorship benefit paid upon the death of an active or inactive member who has completed over 20 years of membership service~~, the survivorship benefit must be equal to 2.5% of the final average compensation for each year of service~~ is the benefit amount to which the member was entitled on the date of death.

(3) Benefits provided under this section are subject to the benefit adjustments provided pursuant to part 10 of this chapter."

Section 117. Section 19-13-903, MCA, is amended to read:

"**19-13-903. Payments ~~in absence of spouse or dependent child~~ to designated beneficiary.** If, after a member dies ~~without leaving a surviving spouse or dependent child and if the member had designated~~

~~a beneficiary in writing to the board as provided in 19-2-801~~, a benefit is not paid pursuant to 19-13-704, 19-13-803, or 19-13-902, then the board shall pay to the member's designated beneficiary the amount, if any, of the retired member's accumulated contributions minus the total of any ~~retirement~~ benefits already paid from the member's account. ~~If the deceased member did not designate a beneficiary or the beneficiary predeceased the member, the amount must be paid to the member's estate.~~"

Section 118. Section 19-17-102, MCA, is amended to read:

"**19-17-102. Definitions.** Unless the context requires otherwise, the following definitions apply in this chapter:

(1) "Active member" means a volunteer firefighter credited with service under this chapter during the most recently reportable fiscal year.

(2) "Benefit" means the pension, disability, or survivorship benefit provided under this chapter.

(3) "Board" means the public employees' retirement board provided for in 2-15-1009.

(4) "Claim" means a request from a member, surviving spouse, or dependent child for payment of medical or funeral expenses.

(5) "Department" means the department of administration.

(6) "Dependent child" means a child who is unmarried, who is under 18 years of age, and who is the child of a deceased member.

(7) "Disability" or "permanent total disability" means permanent total disability as defined in 39-71-116.

(8) "Fire company" means a fire company organized in an unincorporated area, town, or village in accordance with 7-33-2311.

(9) "Fiscal year" means the 12-month period that begins on July 1 and ends on June 30 of the following year.

(10) "Member" means a volunteer firefighter who has service credited under this chapter.

(11) "Pension trust fund" means the volunteer firefighters' pension trust fund established to pay benefits under this chapter.

(12) "Retiree" or "retired member" means a member who is receiving full or partial participation benefits or disability benefits from the pension trust fund.

(13) "Service" means cumulative periods of active membership that are credited only in full fiscal ~~years~~ year increments.

(14) "Supplemental insurance" means insurance that is carried by a fire company for the purposes of providing disability or death benefits and that is in addition to any insurance required by law, including workers' compensation insurance.

(15) "Surviving spouse" means the spouse married to a member when the member dies.

(16) "Survivorship benefit" means the monthly benefit paid to the surviving spouse or dependent child of a deceased member.

(17) "Volunteer firefighter" means a person who is an active member of an eligible fire company and is not compensated for services as a firefighter."

Section 119. Section 19-17-104, MCA, is amended to read:

"**19-17-104. Penalty for false statements or claims.** A person required to make a statement or affidavit by this chapter who willfully falsifies ~~such~~ the statement or affidavit or a person who files a false claim under this chapter is guilty of a misdemeanor and upon conviction ~~thereof~~ shall be punished by a fine in an amount not exceeding ~~$500~~ $1,000 or by imprisonment for a term not exceeding ~~6 months~~ 1 year, or both."

Section 120. Section 19-17-106, MCA, is amended to read:

"**19-17-106. Pension trust fund established -- restrictions on use.** (1) A pension trust fund is established and maintained for payment of claims and benefits provided under the Volunteer Firefighters' Compensation Act and the volunteer firefighters' pension plan.

(2) The pension trust fund must be funded on an actuarially sound basis. For purposes of this subsection, "actuarially sound basis" means that contributions must be sufficient to pay the full actuarial cost of the fund. The full actuarial cost includes both the normal cost of providing benefits as they accrue in the future and the cost of amortizing unfunded liabilities over a scheduled period of no more than 30 years.

(3) Except as provided in this section, a member or an employee of the department or the board of investments may not:

(a) have any interest, direct or indirect, in the making of any investment or in the gains or profits accruing from the pension trust fund;

(b) directly or indirectly, for the member or employee or as an agent or partner of others, borrow from the pension trust fund or deposits;

(c) in any manner use the pension trust fund except to make current and necessary payments that are authorized by the board; or

(d) become an endorser or surety as to or in any manner an obligor for investments for the pension trust fund.

~~(3)~~(4) The assets of the pension trust fund may not be used for or diverted to any purpose other than for the exclusive benefit of members, their surviving spouses, their dependent children, and qualified fire companies and for paying the reasonable administrative expenses of administering this chapter.

(5) Upon the termination of the pension trust fund, the substantial reduction in the number of members that would constitute a partial termination of the pension trust fund, or the complete discontinuance of contributions to the pension trust fund, the pension benefit accrued to each member directly affected by the occurrence becomes fully vested and nonforfeitable to the extent that the benefit is funded."

Section 121. Section 19-17-202, MCA, is amended to read:

"**19-17-202. Reports of board.** (1) ~~The~~ As soon as practical after the close of each fiscal year, the board shall~~, not later than November 1 of each year, make a report to~~ file with the governor a report covering ~~the operations and proceedings for the prior fiscal year relative to its~~ administration of the Volunteer Firefighters' Compensation Act ~~and the volunteer firefighters' pension plan~~ for that fiscal year.

(2) The report ~~may include suggestions or recommendations that the board considers of value for public information~~ must include:

(a) a statement of the accumulated cash and securities in the pension trust fund as certified by the state treasurer and the board of investments; and

(b) the most recent published report of the actuary of the actuarial valuation of the assets and liabilities of the plan.

~~(2) Copies of the reports must be made available by the board to the chief or other representative of any volunteer fire company or companies that request them.~~"

Section 122. Section 19-17-401, MCA, is amended to read:

"**19-17-401. Eligibility for pension and disability benefits.** (1) To qualify for pension and disability benefits under this chapter, a member shall meet the requirements of subsections (2) or (3) and (4).

(2) (a) For full pension benefits, a member must have completed at least 20 years' service and

must have attained 55 years of age, but need not be an active member of a fire company when 55 years of age is reached.

(b) A member who is prevented from completing at least 20 years' service may qualify for partial pension benefits if the member has completed at least 10 years' service and has attained 60 years of age, but need not be an active member of any fire company when 60 years of age is reached.

(3) An active member of a fire company whose duty-related injury results in permanent total disability, as defined in 39-71-116 and determined pursuant to [section 127], is eligible, regardless of age or service, to receive a disability benefit.

(4) To receive a pension or disability ~~benefits~~ benefit, a volunteer firefighter may not be an active member of any fire company. A volunteer firefighter who receives a pension or disability ~~benefits~~ benefit under this chapter may not become an active member of any fire company."

Section 123. Section 19-17-403, MCA, is amended to read:

"**19-17-403. Application for benefits.** (1) A member may, as provided in this section, apply for retirement benefits before terminating covered service, but commencement of the benefits must be as provided in [section 128].

(2) A member, surviving spouse, or dependent child shall apply for benefits on a form provided by the board.

~~(2)~~(3) The application must contain:

(a) the name, address, and date of birth of the member, surviving spouse, or dependent child;

(b) the date of birth of the member; ~~and~~

(c) the date of the member's death, if applicable; and

(d) the fiscal years during which service as an active member is claimed and the names of the fire companies with which the service was rendered.

~~(3)~~(4) The board may require any proof of age, death, and service that it may consider proper, but it must accept a certificate properly completed and timely filed under 19-17-402 or subsection (3) of section 22, Chapter 157, Laws of 1977, as prima facie proof of service.

~~(4) If a qualified member properly submits an application, the member is entitled to receive benefits as of the first day of the month following approval of the application.~~"

Section 124. Section 19-17-404, MCA, is amended to read:

"**19-17-404. Amount of pension and disability benefits.** (1) (a) Each eligible member must receive pension and disability benefits as provided in this section.

(b) The base pension benefit is $100 ~~per~~ a month for members who are eligible for full pension benefits.

(c) Partial pension benefits are calculated by multiplying the full pension benefit of $100 by a fraction, the numerator of which is the member's years of service and the denominator of which is 20.

(2) The disability benefit paid to eligible members is calculated in the same manner as partial pension benefits described in subsection (1)(c), except that the numerator may not be less than 10.

(3) If any fraudulent change or any inadvertent mistake in records results in any member, surviving spouse, or dependent child receiving more or less than entitled to, then on the discovery of the error, the board shall correct the error and adjust the payments to the member, surviving spouse, or dependent child in an equitable manner."

Section 125. Section 19-17-405, MCA, is amended to read:

"**19-17-405. Survivorship benefits to surviving spouse or dependent children.** (1) Subject to the limitation in subsection (3), survivorship benefits equal to the full or partial pension benefits otherwise payable to the deceased member must be paid or continue to be paid to the surviving spouse or, if the deceased member left no surviving spouse but left a dependent child, to the guardian or other person having custody of the dependent child.

(2) The survivorship benefit must be paid in each of the following circumstances:

(a) the death on or after July 1, 1995, of a member who had at least 10 years of service and who was not receiving pension benefits; or

(b) the death on or after July 1, 1985, of a retired member who was receiving pension benefits but who had not received benefits for a total of 40 months.

(3) Survivorship benefits under subsection (1) terminate when benefits have been paid for a total of 40 months, including any pension or disability benefits paid to the retiree before death. At the request of the recipient, a lump-sum payment may be made in lieu of up to 40 months of survivorship benefits."

Section 126. Section 19-17-407, MCA, is amended to read:

"**19-17-407. Exemption from taxation and legal process.** (1) The first $3,600 or the amount determined pursuant to 15-30-111(2)(c)(ii) of benefits received under this part is exempt from state,

county, and municipal taxation.

(2) Except as provided in 19-2-907 and 19-2-909, benefits received under this part are not subject to execution, garnishment, attachment, or any other process."

NEW SECTION. **Section 127. Determination of disability.** (1) The board shall determine whether a member has become disabled. In the discharge of its duty regarding determinations, the board, any member of the board, or any authorized representative of the board may order medical examinations, conduct contested case hearings, administer oaths and affirmations, take depositions, certify to official acts and records, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records considered necessary as evidence in connection with a claim for disability benefits.

(2) The board shall retain medical personnel to advise it in initially determining the nature and extent of disabling conditions.

NEW SECTION. **Section 128. Time benefits commence.** (1) The pension benefit payable pursuant to this part may commence on the first day of the month following the eligible member's last day of service or on the first day of a later month following filing of the written application.

(2) The disability retirement benefit payable pursuant to this part must commence on the day following the member's termination from service.

(3) Monthly survivorship benefits payable pursuant to this part must commence on the day following the death of the member.

NEW SECTION. **Section 129. Catchup eligibility and normal retirement age.** For the purposes of determining a participant's eligibility to catch up on making the maximum annual deferrals allowable, normal retirement age must be specified in writing by the participant and must be no earlier than:

(1) the age at which the participant is eligible to retire pursuant to the participant's Title 19 retirement system because of the participant's age, length of service, or both, without disability, and with the right to receive immediate retirement benefits without actuarial or similar reduction because of retirement before a specified age; or

(2) 60 years of age if the participant is not a member of a Title 19 retirement plan or is a member of a defined contribution retirement plan.

NEW SECTION. **Section 130. Repealer.** Sections 19-2-1101 and 19-2-1102, MCA, are repealed.

NEW SECTION. **Section 131. Codification instruction.** (1) [Sections 28 and 29] are intended to be codified as an integral part of Title 19, chapter 3, part 5, and the provisions of Title 19, chapter 3, part 5, apply to [sections 28 and 29].

(2) [Section 65] is intended to be codified as an integral part of Title 19, chapter 6, part 8, and the provisions of Title 19, chapter 6, part 8, apply to [section 65].

(3) [Section 80] is intended to be codified as an integral part of Title 19, chapter 7, part 8, and the provisions of Title 19, chapter 7, part 8, apply to [section 80].

(4) [Section 98] is intended to be codified as an integral part of Title 19, chapter 8, part 9, and the provisions of Title 19, chapter 8, part 9, apply to [section 98].

(5) [Section 105] is intended to be codified as an integral part of Title 19, chapter 9, part 4, and the provisions of Title 19, chapter 9, part 4, apply to [section 105].

(6) [Section 113] is intended to be codified as an integral part of Title 19, chapter 13, part 4, and the provisions of Title 19, chapter 13, part 4, apply to [section 113].

(7) [Sections 127 and 128] are intended to be codified as an integral part of Title 19, chapter 17, part 4, and the provisions of Title 19, chapter 17, part 4, apply to [sections 127 and 128].

(8) [Section 129] is intended to be codified as an integral part of Title 19, chapter 50, part 1, and the provisions of Title 19, chapter 50, part 1, apply to [section 129].

NEW SECTION. **Section 132. Effective dates.** (1) Except as provided in subsection (2), [this act] is effective on passage and approval.

(2) [Section 29] is effective June 30, 2001.

NEW SECTION. **Section 133. Termination.** [Section 28] terminates June 30, 2001.

- END -

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
57th LEGISLATURE - REGULAR SESSION
COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN ALLAN WALTERS**, on January 10, 2001 at 8:00 A.M., in Room 455 Capitol.

ROLL CALL

Members Present:

Rep. Allan Walters, Chairman (R)
Rep. Debby Barrett, Vice Chairman (R)
Rep. Tom Dell, Vice Chairman (D)
Rep. Norma Bixby (D)
Rep. Dee Brown (R)
Rep. Donald L. Hedges (R)
Rep. Hal Jacobson (D)
Rep. Larry Jent (D)
Rep. Michelle Lee (D)
Rep. Larry Lehman (R)
Rep. Ralph Lenhart (D)
Rep. Gay Ann Masolo (R)
Rep. Douglas Mood (R)
Rep. Alan Olson (R)
Rep. Holly Raser (D)
Rep. Rick Ripley (R)
Rep. Clarice Schrumpf (R)
Rep. Frank Smith (D)

Members Excused: None.

Members Absent: None.

Staff Present: Sheri Heffelfinger, Legislative Branch
Ruthie Padilla, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 28, 1/5/2001; HB 50, 1/5/2001; HB 152, 1/5/2001; HB 183, 1/5/2001

HEARING ON HB 152

Sponsor: **REPRESENTATIVE DAVE GALLIK, HD 52, HELENA**

Proponents: **Mike O'Connor, MPERA**
Tom Bilodeau, MEA-MFT
Bob Bergren, MSFA

Opponents: None

Opening Statement by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 3.0}

REPRESENTATIVE DAVE GALLIK, HD 52, Helena, explained this bill is mostly a housekeeping and general revision bill and has been requested by the Public Employees Retirement Board for the Public Employees Retirement Systems. The Public Employees Retirement Board administers 8 retirement systems and has an annual expenditure of only .12%, that is 10 times less than the average general equity fund of 1.04%. There are a few technical changes that need to be made to the bill that are simple changes in wording, and will be done later in the process.

Proponents' Testimony:

{Tape : 1; Side : A; Approx. Time Counter : 6.2}

Mike O'Connor, Montana Public Employees Retirement Administration, stated that this is their big bill. This bill will not cost any additional funding. They are attempting to simply change the terminology and clean up the language to keep it consistent throughout. EXHIBIT**(sth07a01)**

Tom Bilodeau, Montana Education Association-Montana Federation of Teachers, stated that this bill accomplishes 3 important goals; 1st and foremost, it provides simplification of the existing provisions. 2nd, this bill addresses the clarification and consistency of language. 3rd and most importantly, it helps insure that continued qualified plans status in Public Employees Retirement Systems.

Bob Bergren, Montana State Fireman's Association, stated that he would like it to go on record that they also supports this bill.

Opponents' Testimony: None

Questions from Committee Members and Responses:

{Tape : 1; Side : A; Approx. Time Counter : 15.4}

REPRESENTATIVE MOOD asked whether the election period for existing legislators is in this bill? **Mike O'Connor** replied that it is in a separate bill.

REPRESENTATIVE BROWN asked about appeals if a person's application for benefits is turned down by the board? **Mr. O'Connor** stated that there is a whole appeals process. **REPRESENTATIVE BROWN** then asked about the employee incentive awards? **Mr. O'Connor** replied that an incentive is not necessarily money and if the incentive was money there would still not be a need for a fiscal note because the Retirement board sets its own budget. It would not go through the budget office.

REPRESENTATIVE LEE asked since their was no definition of a police officer on the bill, would anyone be eliminated? **Mr. O'Connor** replied that nobody would be eliminated because they are classified as a police officer in the protected system.

REPRESENTATIVE WALTERS asked if a fiscal note will be necessary? **Mr. O'Connor** said no.

Closing by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 20.3}

REPRESENTATIVE GALLIK stated that this is a good government bill with efficiency and simplification and requests a do pass on this legislation.

HEARING ON HB 50

Sponsor: **REPRESENTATIVE CAROL JUNEAU, HD 85, BROWNING**

Proponents: **Cynthia Reichenbach, Department of Commerce**
Marlene O'Connell, University of Great Falls
Kristi Johnson, MAADAC
Myra Lefthand, NACDA
Lorrin Walker, MAADAC Commissioner
Ron Ladue, Blackfoot Community College
Annie Bartos, Department of Commerce

HOUSE OF REPRESENTATIVE

ROLL CALL

STATE ADMINISTATION COMMITTEE

DATE 1/10/01

NAME	PRESENT	ABSENT	EXCUSED
REP. ALLAN WALTERS, CHAIRMAN	X		
REP. DEBBY BARRETT, V.C. MAJORITY	X		
REP. TOM DELL, V.C. MINORITY	X		
REP. DOUG MOOD	X		
REP. FRANK SMITH	X		
REP. DEE BROWN	X		
REP. MICHELLE LEE	X		
REP. LARRY LEHMAN	X		
REP. RALPH LENHART	X		
REP. ALAN OLSON	X		
REP. NORMA BIXBY	X		
REP .RICK RIPLEY	X		
REP. CLARICE SCHRUMF	X		
REP. HOLLY RASER	X		
REP. GAY ANN MASOLO	X		
REP. HAL JACOBSON	X		
REP. DON HEDGES	X		
REP. LARRY JENT	X		

MONTANA HOUSE OF REPRESENTATIVES
VISITORS REGISTER
HOUSE STATE ADMINISTARTION COMMITTEE

DATE 1/10/01

BILL NO. HB 152 SPONSOR(S) Gallik, Rep

TYPE

PROPONENT (P) OPPONENT (O) INFORMATIONAL (I)

PLEASE PRINT

PLEASE CIRCLE	NAME	ADDRESS	REPRESENTING
P O I	Mike O'Connor	Helena	MPERA
(P) O I	Tom Bilodeau	Helena	MEA-MFT
P O I	Ed Bergeon	Helena	MSFC
P O I			
P O I			
P O I			
P O I			
P O I			
P O I			
P O I			
P O I			
P O I			
P O I			
P O I			
P O I			

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony

S:\HOUSE STATE ADMIN FORMS\visitor register.frm

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
57th LEGISLATURE - REGULAR SESSION
COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN ALLAN WALTERS**, on January 17, 2001 at 8:00 A.M., in Room 455 Capitol.

ROLL CALL

Members Present:

Rep. Allan Walters, Chairman (R)
Rep. Debby Barrett, Vice Chairman (R)
Rep. Tom Dell, Vice Chairman (D)
Rep. Norma Bixby (D)
Rep. Dee Brown (R)
Rep. Donald L. Hedges (R)
Rep. Hal Jacobson (D)
Rep. Larry Jent (D)
Rep. Michelle Lee (D)
Rep. Larry Lehman (R)
Rep. Ralph Lenhart (D)
Rep. Gay Ann Masolo (R)
Rep. Douglas Mood (R)
Rep. Alan Olson (R)
Rep. Holly Raser (D)
Rep. Rick Ripley (R)
Rep. Clarice Schrumpf (R)
Rep. Frank Smith (D)

Members Excused: None.

Members Absent: None.

Staff Present: Sheri Heffelfinger, Legislative Branch
Ruthie Padilla, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 90, 1/11/2001
Executive Action: HB 47; HB 38; HB 152; HB 28; HB 50; HB 91; HB 97

REPRESENTATIVE LEE said transportation is a big issue and it does matter. This is a big barrier that does needs to be addressed. This is a good way to address it and everyone wins.

REPRESENTATIVE RASER commented a vehicle is a necessity. This will not cost the state anything. It will make the vehicles available for purchase by other agencies.

REPRESENTATIVE HEDGES asked what the difference would be in supplying a number of automobiles through the Surplus Motor Pool verses taking a similar amount of money and putting it in the Social Services Department where they can go to town and purchase their client an automobile. **REPRESENTATIVE MASOLO** replied, one advantage of going through the State Motor Pool is knowing the vehicles have been serviced, therefore are less likely to break down.

REPRESENTATIVE LENHART asked how many vehicles would be needed each year. **REPRESENTATIVE SCHMIDT** replied the fiscal note states 25 per year.

REPRESENTATIVE DELL stated this is a good rural and jobs' bill. It will give assistance to individuals who have no means of getting to work, especially in places where there is no bus service.

REPRESENTATIVE SCHRUMPF commented, the bill is the missing link to welfare and taxed wages. If you cannot get to work, you cannot work. Without a vehicle, you will be struggling, defeated and frustrated. This will allow you to get out on the job market.

Motion: **REP. MASOLO** moved that **HB 38 DO PASS AS AMENDED.** **Vote**: Motion **carried 12-6 with Barrett, Hedges, Lehman, Mood, Olson, and Ripley voting no.**

EXECUTIVE ACTION ON HB 152

{Tape : 2; Side : A; Approx. Time Counter : 12.5}

Motion: **REP. JACOBSON** moved that **HB 152 DO PASS.**

Motion: **REP. JACOBSON** moved that **HB 152 BE AMENDED.** **EXHIBIT(sth13a04)** **Vote**: Motion **carried unanimously.**

Motion/Vote: **REP. JACOBSON** moved that **HB 152 DO PASS AS AMENDED.** **Motion carried unanimously.**

EXHIBIT 4
DATE 1/17/01
HB 152

Amendments to House Bill No. 152
1st Reading Copy

Requested by Representative Dave Gallik

For the House State Administration Committee

Prepared by Sheri Heffelfinger
January 12, 2001 (7:43AM)

1. Page 30, line 28.
Strike: "membership"
Following: "~~credits~~"
Insert: "credit"

2. Page 34, line 5.
Strike: "any"
Insert: "all or a portion of"

3. Page 67, line 15.
Following: "on the"
Strike: "the"

4. Page 82, line 30.
Strike: "19-3-707"
Insert: "19-2-707"

5. Page 88, line 1.
Following: "purchase"
Insert: "all or a portion of"

6. Page 91, line 3.
Following: "pay"
Insert: "claims and"

- END -

HOUSE STANDING COMMITTEE REPORT

Mr. Speaker:

We, your committee on **State Administration** report that **House Bill 152** (first reading copy - white) **do pass as amended.**

Signed: Allan Walters
Representative Allan Walters, Chair

And, that such amendments read:

1. Page 30, line 28.
Strike: "membership"
Following: "~~credits~~"
Insert: "credit"

2. Page 34, line 5.
Strike: "any"
Insert: "all or a portion of"

3. Page 67, line 15.
Following: "on the"
Strike: "the"

4. Page 82, line 30.
Strike: "19-3-707"
Insert: "19-2-707"

5. Page 88, line 1.
Following: "purchase"
Insert: "all or a portion of"

6. Page 91, line 3.
Following: "pay"
Insert: "claims and"

Committee Vote:
Yes 18, No 0.

131412SC.hdc

- END -

131412SC.hdc

MINUTES

MONTANA SENATE
57th LEGISLATURE - REGULAR SESSION
COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN DON HARGROVE**, on March 2, 2001 at 10:00 A.M., in Room 335 Capitol.

ROLL CALL

Members Present:
Sen. Don Hargrove, Chairman (R)
Sen. Edward Butcher (R)
Sen. Pete Ekegren (R)
Sen. Jim Elliott (D)
Sen. Eve Franklin (D)
Sen. Ken Toole (D)

Members Excused: Sen. John C. Bohlinger, Vice Chairman (R)
Sen. Fred Thomas (R)

Members Absent: None.

Staff Present: Lynette Brown, Committee Secretary
David Niss, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing(s) & Date(s) Posted: HB 204, HB 74, HB 152, 2/27/2001
Executive Action: HB 311, HB 152, HB 74, HB 204

{Tape : 1; Side : A; Approx. Time Counter : 0}

HEARING ON HB 204

Sponsor: REP. ROD BITNEY, HD 77, Kalispell

Proponents: Robert Throssell, Montana Association of Clerk and Recorders

SEN. BUTCHER told the committee that by using the word "may", lawsuits could be averted.

SEN. ELLIOTT asked why this new amendment was needed. **David Niss** explained that the amendment would read assistance within available resources may be provided to an evacuee who seeks the assistance. He added that the difference caused by the amendment was a requirement that assistance be provided versus a discretionary decision to provide assistance.

Motion/Vote: **SEN. BUTCHER** moved **TO RECONSIDER HB 311. Motion carried 5-0.**

Motion/Vote: **SEN. BUTCHER** moved **AMENDMENT HB031103.ADN. Motion carried 5-0.**

SEN. TOOLE said that someone refused to evacuate in Colorado and a firefighter was killed when he went back in. He urged the committee to kill this bill. **SEN. TOOLE** added that sometimes the people choosing to stay did not have all the necessary information to make that decision.

SEN. HARGROVE stated this bill required that they had a plan.

Motion/Vote: **SEN. BUTCHER** moved that **HB 311 BE CONCURRED IN AS AMENDED. Motion carried 7-1 with Toole voting no.**

HEARING ON HB 152

Sponsor: **SEN. DAVE GALLIK, HD 52, Helena**

Proponents: **Kelly Jenkins, Montana Public Employees Retirement Board**
Tom Schneider, Montana Public Employees Association
Tom Bilodeau, MEA-MFT
Bob Bergren, Montana State Firemen Association

Opponents: **None**

Opening Statement by Sponsor:

SEN. DAVE GALLIK, HD 52, Helena told the committee this was a revision bill. He added this bill had clear and consistent terms and procedures.

Proponents' Testimony:

Kelly Jenkins, Montana Public Employees Retirement Board, EXHIBIT(sts48a06) explained the table for HB 152 to revise public retirement laws.

Tom Schneider, Montana Public Employees Association, supported this bill.

Tom Bilodeau, MEA-MFT, supported this legislation.

Bob Bergren, Montana State Firemen' Association, expressed support for this bill.

Opponents' Testimony: None

Questions from Committee Members and Responses:

SEN. HARGROVE asked **Kelly Jenkins** if some of the terms were the same as some of the other retirement systems. **Kelly Jenkins** responded that this bill would provide consistent terminology between the systems.

Closing by Sponsor:

REP. GALLIK, HD 52 closed HB 152.

EXECUTIVE ACTION ON HB 152

Motion/Vote: SEN. BUTCHER moved that **HB 152 BE CONCURRED IN. Motion carried unanimously.**

EXECUTIVE ACTION ON HB 74

Motion/Vote: SEN. ELLIOTT moved that **HB 74 BE CONCURRED IN. Motion carried unanimously.**

EXECUTIVE ACTION ON HB 204

The following exhibit
exceeds 10 pages.

Exhibit: 6
3.2.01
HB 152

The complete exhibit is located with the minutes are at the
Montana Historical Society Archives
225 North Roberts
Helena, Mt 59620-1202
(406) 444-4775

MONTANA SENATE
2001 LEGISLATURE
STATE ADMINISTRATION COMMITTEE

ROLL CALL DATE 3-2-01

NAME	PRESENT	ABSENT	EXCUSED
SEN. DON HARGROVE, CHAIRMAN	✓		
SEN. JOHN BOHLINGER, VICE CHAIRMAN			✓
SEN. ED BUTCHER	✓		
SEN. PETE EKEGREN	✓		
SEN. JIM ELLIOTT	✓		
SEN. EVE FRANKLIN	✓		
SEN. FRED THOMAS			✓
SEN. KEN TOOLE	✓		

SENATE STANDING COMMITTEE REPORT

March 2, 2001

Mr. President:

We, your committee on **State Administration** recommend that **House Bill 152** (third reading copy – blue) **be concurred in.**

Signed: _____
Senator Don Hargrove, Chair

To be carried by Senator Jon Tester

- END -

Committee Vote:
Yes 8, No 0.

481351SC.srf

DATE 3-2-01

SENATE COMMITTEE ON State Administration

BILLS BEING HEARD TODAY: HB74, HB152, HB204

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Jon Schneider	442-4600	MPEA	HB74 152	✓	
Terry Teichroew	444-2036	MPERA - Retirement	HB74 152	✓	
Kelly Jenkins	444-3714	MPEC Board	HB74 HB152	✓	
Jim Smith		Game Warden	HB74	✓	
Mick Chesterfield	284-3525	Game Warden Assoc.	HB74	✓	
Mark Anderson	586-7720	MT. Game Warden Assoc	HB74	✓	
Bob Furue	522-8279	Probation + Parole	HB74	✓	
Maggie McGee	587-8434	MSU Police	HB74	✓	
Matthew Leow	495-9345	MontPIRG	HB204		X
Elaine Kennedy	4-5376	SOS	HB204	✓	
Josh Biloden	442-4250	MEA-MFT	HB74 HB152	X	
Terry Minow	442-4250	MEA-MFT	HB74 HB152	X	
Doug Dencler	444-1789	FWP	HB74	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 3/2/01

SENATE COMMITTEE ON State Administration

BILLS BEING HEARD TODAY: HB 204

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Robert Thwaitell	442-0230	MT Assn Cl & Rec	HB 204	✓	
Bob Lamp	444-4045	DFWP	HB 74	✓	
Bernie Jacobs	444 5203	Dept. of Livestock	HB 74	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY